

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

JERRY LEON DEES, JR., )  
Plaintiff, )  
v. )  
HYUNDAI MOTOR MANUFACTURING )  
ALABAMA, LLC, and HYUNDAI MOTOR )  
AMERICA, INC., )  
Defendants. )

) CIVIL ACTION NO.:  
2:07-cv-00306-MHT-CSC

**DEFENDANTS' MOTION FOR LEAVE TO REPLY TO PLAINTIFF'S RESPONSE IN  
OPPOSITION TO DEFENDANTS' MOTION TO QUASH NON-PARTY  
SUBPOENA TO ALABAMA PSYCHIATRIC SERVICES AND SAEED A. SHAH, MD.**

Defendants Hyundai Motor Manufacturing Alabama, LLC (HMMA) and Hyundai Motor America, Inc. (“HMA”) (collectively “Defendants”), move this Honorable Court to allow Defendants to reply *Plaintiff’s Response in Opposition to Defendants’ Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.* (Doc. No. 74). In support of this motion, Defendants state as follows:

1.     *Plaintiff's Response in Opposition to Defendants' Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.* was filed on December 17, 2007.
  2.     Defendants ask this Court to allow them to reply and consider their *Reply to Plaintiff's Response in Opposition to Defendants' Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.*

WHEREFORE, PREMISES CONSIDERED, Defendants request this Honorable Court to consider Defendants' *Reply to Plaintiff's Response in Opposition to Defendants' Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.*, and, if necessary, enter an Order allowing Defendants' to respond considering the attached Exhibit A as Defendants' response.

Respectfully submitted this 20th day of December, 2007.

/s/ T. Scott Kelly

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Attorneys for Defendants Hyundai Motor Manufacturing Alabama, LLC and Hyundai Motor America, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of December, 2007, I electronically filed the foregoing *Defendants' Motion to Quash Non-Party Subpoena to Industrial Care Management* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: W. Perry Hall, Vincent F. Kilborn, III, David Allen McDonald, Jeffrey Rayborn Sport, Trent Scofield, and Matthew K. Johnson.

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**JERRY LEON DEES, JR.,**)  
v. Plaintiff,) CIVIL ACTION NO.:  
HYUNDAI MOTOR MANUFACTURING ) 2:07-cv-00306-MHT-CSC  
ALABAMA, LLC, and HYUNDAI MOTOR )  
AMERICA, INC., )  
**Defendants.**)

**DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE IN OPPOSITION TO**  
**DEFENDANTS' MOTION TO QUASH NON-PARTY**

Defendants Hyundai Motor Manufacturing Alabama, LLC (HMMA) and Hyundai Motor America, Inc. (“HMA”) (collectively “Defendants”), reply to *Plaintiff’s Response in Opposition to Defendants’ Motion to Quash Non-Party Subpoena to Alabama Psychiatric Services and Saeed A. Shah, M.D.* (Doc. No. 74) as follows:

I. **Mr. Brookshire's Medical And/or Psychiatric Records Are Irrelevant.**

A closer examination of Mr. Brookshire's role in this litigation supports Defendants' position that Plaintiff is not entitled to the records requested in his subpoena. Mr. Brookshire is not a party and his only involvement in this case stems from his observation and report to HMMA management of Plaintiff sleeping at work. Mr. Brookshire observed Plaintiff sleeping with his head down and his legs extended for approximately 2 minutes during the early morning hours of February 14, 2007. (Deposition Transcript of Jim Brookshire attached hereto as Exhibit 1 at 123: 3-10; 129: 1-2, 11-12).

After receiving this report, HMMA investigated the incident and ultimately terminated Plaintiff's employment on February 26, 2007. HMMA's investigation into Plaintiff's misconduct was comprehensive. Both Mr. Brookshire and Plaintiff were interviewed and their respective versions of events were reduced to written form. (*See Declaration of Rob Clevenger attached hereto as Exhibit 2 at ¶¶ 5, 6, 7 and Attachments A, B, C*)<sup>1</sup>.

Approximately six weeks after he reported Plaintiff sleeping on the job, Mr. Brookshire failed a drug screen in connection with a post-accident screen. (Exhibit 1 at 48: 15-19). However, Mr. Brookshire testified he never used and was not under the influence of drugs or alcohol while on HMMA property. (Exhibit 1 at 47: 1-2; 179: 11-14; 180: 5-9).

The timing of Mr. Brookshire's report of Plaintiff sleeping and Mr. Brookshire's subsequent positive drug screen support HMMA's position that it had no reason to doubt Mr. Brookshire's version of events. Additionally, Plaintiff's own testimony reveals that Mr. Brookshire had no discriminatory animus towards Plaintiff's military status. For example, Plaintiff testified:

- Q. Did you know Jim Brookshire well?
- A. He was -- Yeah. Working with him every day near about.
- Q. Okay. Did you ever have any problems with him?
- A. No. Not like with everyone else, no.

(Deposition Transcript of Plaintiff attached hereto as Exhibit 3 at 228: 6-13). Plaintiff's own self-serving conclusions that another HMMA employee, Greg Prater<sup>2</sup>, convinced Mr. Brookshire to falsely accuse Plaintiff of sleeping on the job are unsupported. Indeed, Plaintiff admitted he possessed no personal knowledge or evidence of this allegation. (Exhibit 3 at 193: 19-23; 194: 1-15; 197: 12-23; 198: 1).

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<sup>1</sup> This Declaration was filed in connection with Defendants' pending Motion for Summary Judgment.

<sup>2</sup> Plaintiff admits that Greg Prater, his supervisor, also served in the military.

HMMA had no reason to doubt Mr. Brookshire's credibility at the time he reported that Plaintiff was asleep at work or on February 26, 2007, when it terminated Plaintiff's employment. *See Damon v. Fleming Supermarkets of Fla., Inc.*, 196 F.3d 1354, 1361 (11<sup>th</sup> Cir. 1999) ("[a]n employer who fires an employee under the mistaken but honest impression that the employee violated a work rule is not liable for discriminatory conduct."); *EEOC v. Total Systems Services, Inc.*, 221 F.3d 1171, 1175 (11<sup>th</sup> Cir. 2000) ("an employer is entitled to rely on its good faith belief about falsity, concealment, and so forth in an internal investigation and can properly discharge an employee who it believes has lied in an internal investigation") (internal citations omitted); *Elrod v. Sears, Roebuck & Co.*, 939 F.2d 1466, 1470 (11<sup>th</sup> Cir. 1991) (proper inquiry is whether the employer in good faith believed that the employee had done wrong and whether this belief was the reason for the termination).

Therefore, Mr. Brookshire's sensitive and confidential medical and/or psychiatric records clearly are not relevant to Plaintiff's claims of discrimination. Accordingly, this Court should quash the subpoenas to Alabama Psychiatric Services and Dr. Shah.

## **II. Mr. Brookshire Is Not A Party To This Lawsuit And Has Not Waived The Privilege**

Plaintiff argues that Mr. Brookshire has waived the psychiatric-patient privilege. However, Plaintiff misses the point here because to waive the privilege in this lawsuit, Mr. Brookshire must be a party to the current litigation. Mr. Brookshire is not; he is a non-party fact witness that observed and then reported that Plaintiff was asleep at work. Also, at no point in this litigation has Mr. Brookshire used his alleged medical and/or psychiatric condition as evidence in this case. Instead, Plaintiff has attempted to capitalize on Mr. Brookshire's positive drug screen in effort to distort the fact that he was discovered asleep at work.

The cases Plaintiff cites on waiver in his opposition are inapposite to the current situation. For example, in *Vanderbilt v. Town on Chilmark*, 174 F.R.D. 225 (D. Mass 1997), the **plaintiff** alleged she suffered emotional distress damages as a result of the alleged discrimination and retaliation she suffered by her former employer. *Id.* at 226. The employer filed a motion to compel for the plaintiff to produce, among other things, her psychiatric and psychotherapeutic records arguing that by putting her emotional state at issue, plaintiff waived the privilege. *Id.* at 228. The *Vanderbilt* court upheld the psychiatric-patient privilege and denied the employer's motion to compel. *Id.* at 230.

In *Kelly v. Owens*, 2007 WL 2580492 (M.D. Ala. Sept. 4, 2007), the **plaintiff** alleged inadequate medical care and physical abuse during his pretrial detention in the Coosa County Jail. *Id.* at \*1. The *Kelly* court held that psychiatric-patient privilege had been waived when **plaintiff** placed his mental health at issue by alleging an existing mental illness when he was first detained and developed a new mental illness as a result of his treatment while detained. 2007 WL 2580492 at \*3.

Finally, in *Doe v. Ensey, et al.*, 220 F.R.D. 422 (M.D. Pa. 2004), the court held that any discussions between defendants, who were priests accused of sexual molestation by plaintiff, and their psychologists were protected by the federal privilege recognized in *Jaffe* but that under Pennsylvania law the privilege was waived because of the priests disclosure of the protected information to third parties.

In all three of these cases, the courts analyzed the application of the privilege to the parties, not non-party witnesses. Mr. Brookshire has not waived the privilege in this case and, therefore, his records should be protected from disclosure.

### **III. Defendants Have Standing**

Plaintiff fails to recognize that Alabama Psychiatric Services and Dr. Saeed Shah have also filed a Motion to Quash the subpoenas. These parties certainly have standing. HMMA also has standing to challenge the subpoena due to its relationship with Mr. Brookshire. As his employer, HMMA has a right and an obligation to protect the privacy interests of Mr. Brookshire. The court should not allow Plaintiff to invade Mr. Brookshire's privacy rights so Plaintiff can conduct a fishing expedition on Mr. Brookshire when it is clear that HMMA had no reason at the time to doubt Mr. Brookshire's version of events. Defendants' Motion to Quash is due to be granted.

WHEREFORE, PREMISES CONSIDERED, Defendants request this Honorable Court to order the Clerk of Court to deny issuance of the Plaintiff's proposed subpoena directed to the Custodian of Records of Alabama Psychiatric Services and Saeed A. Shah, M.D.

Respectfully submitted this 20th day of December, 2007.

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Hyundai Motor America, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of December, 2007, I electronically filed the foregoing *Defendants' Motion to Quash Non-Party Subpoena to Industrial Care Management* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: W. Perry Hall, Vincent F. Kilborn, III, David Allen McDonald, Jeffrey Rayborn Sport, Trent Scofield, and Matthew K. Johnson.

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## **EXHIBIT 1**

## JAMES ALLEN BROOKSHIRE

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE MIDDLE DISTRICT OF ALABAMA  
 3 NORTHERN DIVISION  
 4 CASE NO.: 2:0cv00306-MHT-CSC  
 5  
 6 JERRY LEON DEES, JR.,  
 7 Plaintiff,  
 8 V.  
 9 HYUNDAI MOTOR MANUFACTURING ALABAMA, LLC and  
 10 HYUNDAI MOTOR AMERICA, INC.,  
 11 Defendants.  
 12  
 13 STIPULATIONS  
 14  
 15  
 16 IT IS STIPULATED AND AGREED by and  
 17 between the parties, through their respective  
 18 counsel, that the deposition of JAMES ALLEN  
 19 BROOKSHIRE may be taken before STACEY L.  
 20 JOHNSON, Commissioner, at the Marriott  
 21 Prattville at Capitol Hill, 2500 Legends Circle,  
 22 Prattville, Alabama, on the 29th day of  
 23 November, 2007.

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1  
 2 IT IS FURTHER STIPULATED AND AGREED  
 3 that the signature to and the reading of the  
 4 deposition by the witness is hereby waived, the  
 5 deposition to have the same force and effect as  
 6 if full compliance had been had with all laws  
 7 and rules of Court relating to the taking of  
 8 depositions.

9 IT IS FURTHER STIPULATED AND AGREED  
 10 that it shall not be necessary for any  
 11 objections to be made by counsel to any  
 12 questions except as to form or leading  
 13 questions, and that counsel for the parties may  
 14 make objections and assign grounds at the time  
 15 of trial, or at the time said deposition is  
 16 offered in evidence, or prior thereto.

17 IT IS FURTHER STIPULATED AND AGREED  
 18 that the notice of filing of the deposition by  
 19 the Commissioner is waived.

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4

1 (Pages 1 to 4)

**JAMES ALLEN BROOKSHIRE**

1 I, STACEY L. JOHNSON, a CCR of Deatsville,  
 2 Alabama, and Notary Public for the State of  
 3 Alabama at Large, acting as Commissioner,  
 4 certify that on this date, as provided by the  
 5 Federal Rules of Civil Procedure and the  
 6 foregoing stipulation of counsel, there came  
 7 before me at 2500 Legends Circle, Prattville,  
 8 Alabama, beginning at 9:25 a.m., JAMES ALLEN  
 9 BROOKSHIRE, witness in the above cause, for oral  
 10 examination, whereupon the following proceedings  
 11 were had:

12 JAMES ALLEN BROOKSHIRE,  
 13 the witness, after having been first duly sworn  
 14 to speak the truth, the whole truth, and nothing  
 15 but the truth, testified as follows:

**EXAMINATION**

17 BY MR. KILBORN:

18 Q State your full name, Mr. Brookshire.

19 A James Allen Brookshire.

20 Q How old are you?

21 A 35.

22 Q Are you married?

23 A Yes, sir.

1 Q Well, I'm going to let that question  
 2 stand. What is your current employment status?

3 A I'm employed if that's...

4 Q All right. You're employed?

5 A Yeah.

6 Q How long have you been employed?

7 A I've been working at Hyundai since  
 8 August of '05.

9 Q So you've been employed by -- we'll  
 10 call it HMMA?

11 A Yes, sir.

12 Q Hyundai Motor Manufacturing?

13 A Yes, sir.

14 Q Since August of 2005?

15 A Yes, sir.

16 Q And what is your current job title?

17 A Stamping Production Manager.

18 Q What is that? What are your job duties  
 19 as Stamping Production Manager?

20 A I oversee all the day-to-day operations  
 21 in the Stamping Shop, whether it be safety,  
 22 quality, tool and die, scheduling, and any HR  
 23 Team Member concerns or Team Relations problems.

7

1 Q Any children?

2 A Two of my own and two stepchildren.

3 Q And just for background information,  
 4 how old are your own children?

5 A My little one just turned seven months  
 6 and the other one is 19 months.

7 Q Seven months and 19 months?

8 A Driving my wife nuts.

9 Q Okay. And your wife's name?

10 A Stephanie Lynn Brookshire.

11 Q And where do you live?

12 A Where did I live or where do I live  
 13 currently?

14 Q Where do you live currently?

15 A 1048 East Poplar Street here in  
 16 Prattville.

17 Q Are you currently employed?

18 A Yes, sir.

19 Q By who?

20 A Hyundai Motor Manufacturing.

21 Q What's your current employment status?

22 A What do you mean by that? My  
 23 position?

1 Q Safety, quality?

2 A Production.

3 Q Production.

4 A Scheduling, tool and die, and  
 5 day-to-day personnel Team Member issues or Team  
 6 Relations problems.

7 Q Do you have a work schedule?

8 A The start time and stop time?

9 Q Right.

10 A I start at 5:45 in the morning and  
 11 usually finish up about 5:30 in the evening.

12 Q And do you have a lawyer here today?

13 A Yes, I do.

14 Q Who is your lawyer?

15 A Matt and our company lawyer, Chris.

16 Q And what are your lawyers' last names?

17 A Chris' last name is Smith. Matt, I'm  
 18 rusty on that.

19 Q What's your other lawyer's last name?

20 A I'm not sure.

21 Q So you've got one lawyer here you know  
 22 his real name and one lawyer here you only know  
 23 his first name?

8

6

2 (Pages 5 to 8)

## JAMES ALLEN BROOKSHIRE

1 A That's correct.

2 Q And when did the lawyer that you've  
3 identified as Matt become your lawyer?

4 A His official start date with the case,  
5 that was back -- I'm trying to remember the  
6 first encounter I had. That was probably back  
7 in April, April time frame.

8 Q And how about the lawyer that you've  
9 identified as Chris Smith? When did he become  
10 your lawyer?

11 A He's been part of our legal counsel  
12 since probably at least about a year I've known  
13 him.

14 Q Well, I don't want to know just how  
15 long he's been legal counsel. I want to know  
16 how long has Chris Smith been your lawyer.

17 MR. JOHNSON: Just for the Record,  
18 object to the form. I don't see the relevance  
19 of asking when Chris Smith's start date with  
20 HMMA was.

21 MR. KILBORN: I don't want his start  
22 date. I want to know when Chris Smith became  
23 Jim Brookshire's lawyer.

1 and your explanation for asking it, I'll  
2 instruct him not to answer. And he's stated he  
3 will follow. However, please understand that  
4 I'm willing to reconsider if you're willing to  
5 give me some reason to do so.

6 MR. KILBORN: The reason I think it is  
7 relevant and discoverable is because of the  
8 Federal Rules of Civil Procedure. But let's  
9 move on from that.

10 Q What did you do to prepare for your  
11 deposition today?

12 A I had just met with my legal counsel  
13 yesterday and -- to discuss when the time was I  
14 was supposed to appear here today and what it  
15 was in regards to.

16 Q Okay. Did you review any documents to  
17 prepare for your deposition?

18 A Yes, sir.

19 Q What documents did you review?

20 A The documents that I had signed back, I  
21 believe, in the April time frame that -- the  
22 statements I had made in regards to Mr. Dees.

23 Q Let's see if we can't identify those.

1 MR. JOHNSON: And obviously that would  
2 be attorney-client privilege.

3 MR. KILBORN: Not today it would not  
4 be.

5 MR. JOHNSON: When Chris became  
6 involved in representing Mr. Brookshire -- the  
7 way you phrased the question -- would certainly  
8 be.

9 MR. KILBORN: Well, you can instruct  
10 him not to answer.

11 MR. JOHNSON: I instruct you not to  
12 answer that.

13 Q Are you going to follow your lawyer's  
14 instructions?

15 A Yes, sir.

16 Q And you're going to refuse to tell me  
17 the date that Mr. Chris Smith became your  
18 lawyer; is that right?

19 A Yes, sir.

20 MR. JOHNSON: I mean, Mr. Kilborn, if  
21 you'll explain to me why it's relevant and  
22 necessary, I'm certainly willing to reconsider,  
23 but based on the way you've asked the question

1 (Whereupon, Plaintiff's Exhibit  
2 Number 13 was marked for identification  
3 and copy of same is attached hereto.)

6 Q Mr. Brookshire, take a look at what  
7 I've marked as Exhibit 13, which is made up of  
8 two pages and they've got Bates numbers at the  
9 bottom. See these little numbers down here at  
10 the bottom, Dees V HMMA 00037 and 38?

11 A Yes, sir.

12 Q So just to distinguish between the two  
13 I'll call it Plaintiff's Exhibit 13. The first  
14 one will be 37 and the second one will be 38.  
15 Are those the documents that you reviewed?

16 A Yes, sir.

17 Q And are these your statements?

18 A Yes, sir.

19 Q And you reviewed them to prepare for  
20 your deposition?

21 A (Witness nods head.)

22 Q You have to say yes or no.

23 A Yes.

## JAMES ALLEN BROOKSHIRE

1 Q Any other documents that you reviewed?  
 2 A No.  
 3 Q And take a look at Exhibit 13, the  
 4 first document, Bates number 37. Whose  
 5 handwriting is that in?  
 6 A The signature at the bottom or the  
 7 handwriting itself?  
 8 Q Is that your signature?  
 9 A Yes, that's my signature at the bottom.  
 10 Q And it's dated February 15, '07?  
 11 A Yes, sir.  
 12 Q And the second document, Bates number  
 13 38, is that your signature?  
 14 A Yes, sir.  
 15 Q And the date is four days later?  
 16 A Yeah.  
 17 Q Who's handwriting is that?  
 18 A Team Relations rep Will Ware.  
 19 Q What's the name?  
 20 A Team Relations rep William Ware.  
 21 Q Did you write up one yourself?  
 22 A No.  
 23 Q And tell me how it came to pass that

1 had told my supervisor about it the next day  
 2 because I was working night shift when it  
 3 happened. My senior manager was sleeping, so  
 4 I'm not going to wake him up in the middle of  
 5 the night to tell him something like that. I  
 6 just reported it to Mr. Dees' direct supervisor,  
 7 as well as my own, the next day.  
 8 Q Your supervisor was Kevin Hughes?  
 9 A No. That's the team leader for  
 10 Maintenance. My direct supervisor is Craig  
 11 Stapely.  
 12 Q Craig Stapler?  
 13 A Stapely.  
 14 Q What is his job title?  
 15 A He's senior manager of Stamping  
 16 Operations.  
 17 Q And did you report anything to  
 18 Mr. Stapler (sic) or your Team Leader?  
 19 A I just reported the incident to  
 20 Mr. Stapely the next day and reported it to  
 21 Leon's direct supervisor -- salaried supervisor,  
 22 Craig Prater. The team leader that I spoke of  
 23 on night shift is the team leader over Leon

13

15

1 you signed the first -- that you had this first  
 2 interview, Bates number 37.  
 3 A The one -- the issue was brought about  
 4 during a time frame in which Leon's supervisor,  
 5 Mr. Prater, had asked me about a problem that I  
 6 had had the night before. I told the Team  
 7 Leader on the night shift -- because I was  
 8 currently on night shift at the time covering  
 9 because we had an assistant manager that had  
 10 resigned and went to work for another company,  
 11 and my senior manager had moved me to night  
 12 shift to cover for his position. And I had a  
 13 problem there with Mr. Dees in which he was  
 14 caught in a position of sleeping, and I had made  
 15 note to the Team Leader and also informed his  
 16 assistant manager the next day on day shift.  
 17 Q We'll get into that in detail. Who did  
 18 you first report that to?  
 19 A Reported it to the Team Leader.  
 20 Q Who was that?  
 21 A Kevin Hughes.  
 22 Q Was the Team Leader your supervisor?  
 23 A Team Leader is not my supervisor. I

1 Dees, Kevin Hughes.  
 2 Q Kevin Hughes?  
 3 A Yeah.  
 4 Q And so the first person you reported  
 5 this incident to was Mr. Hughes?  
 6 A Yes, sir.  
 7 Q And did you report it verbally or in  
 8 writing?  
 9 A Verbally.  
 10 Q And what did you tell him?  
 11 A I told him I'd caught one of his  
 12 Maintenance Team Members up there by the control  
 13 panel upstairs on the third floor in the SOP  
 14 area sleeping.  
 15 Q What's SOP stand for?  
 16 A Side outer panel area. SOP, side outer  
 17 panel.  
 18 Q And why did you report the sleeping  
 19 incident?  
 20 A Because that's an unbecoming nature of  
 21 conduct or action of a Team Member to be in a  
 22 concealed area sleeping during working time.  
 23 Q What's wrong with sleeping during

14

16

4 (Pages 13 to 16)

## JAMES ALLEN BROOKSHIRE

1 working time?  
 2 A It's not permissible.  
 3 Q Why not?  
 4 A It's against policy.  
 5 Q What's that policy designed to prevent?  
 6 A That's unbecoming performance of a Team  
 7 Member. They're not doing their job.  
 8 Q Not doing their job?  
 9 A (Witness nods head.)  
 10 Q You have to answer yes or no. Is that  
 11 a yes?  
 12 A He wasn't doing his job.  
 13 Q You nodded and she can't get nods.  
 14 You have to say yes or no.  
 15 A Yes. He wasn't doing his job.  
 16 Q Wasn't doing his job. Was that a  
 17 safety issue?  
 18 A Could be.  
 19 Q How could it be?  
 20 A Well, if he'd fall off the -- fall off  
 21 the chair onto the mezzanine or the catwalk  
 22 floor, he could injure himself. Possibly he  
 23 could fall in the position -- because upstairs

1 '05. During our two-week orientation, we had  
 2 Safety members of management come in there and  
 3 train us on basic fundamentals in operations of  
 4 the automation in the plant.

5 Q When myself and Jeff Sport were there  
 6 yesterday with the two Hyundai attorneys, I  
 7 noticed we had to wear ear plugs, safety  
 8 goggles, Kevlar sleeves, and hard hats. I got  
 9 the feeling it was sort of a dangerous place to  
 10 be. Is that a good description of that plant?

11 MR. JOHNSON: Object to the form.  
 12 A Depending on which area you're in in  
 13 the plant deems which appropriate PPE is  
 14 necessary to wear in that department. Our  
 15 department, you're exposed to a lot of outer  
 16 surface metal, sheet metal, which we're in a  
 17 higher chance of getting lacerations or getting  
 18 cuts. And it's always been a standard to wear  
 19 hard hats in the area. Each area is designated  
 20 to wear certain parts of PPE. Just like in GA  
 21 all you have to wear out there is safety shoes,  
 22 safety shoes and safety glasses.

23 Q Is the part of the plant where you were

17

19

1 we have trolleys carrying panels around. And if  
 2 he wasn't watching what he was doing or fell in  
 3 a particular manner, maybe had a bad dream or  
 4 something like that, if he got up, he could get  
 5 seriously cut or injured by moving trolleys.

6 Q And is safety one of the things you're  
 7 in charge of?

8 A Yes, sir.

9 Q Have you had safety training?

10 A Depends on what training you're talking  
 11 about.

12 Q Well, safety in regard to being in the  
 13 plant.

14 A I've had lock-out/tag-out training.

15 Q What's that?

16 A That's where if you enter any area  
 17 where operational energy or any potential  
 18 hazards are in your working area that you can  
 19 disable that energy source.

20 Q Any other safety training?

21 A Not there at that facility. Just a  
 22 basic -- excuse me. We had basic introduction  
 23 to safety when I first started there in August

1 the night we're talking about -- is that called  
 2 the Stamping area?

3 A Yes.

4 Q And the two large stamping presses  
 5 stamp out metal sheets --

6 A Yes, sir.

7 Q -- into car parts?

8 A Yes, sir.

9 Q And they use it with what -- I mean,  
 10 they accomplish it by hydraulic force?

11 A They're actually pneumatics and  
 12 mechanically driven presses.

13 Q So it's a -- it's not a cutting with,  
 14 say, a laser torch. It's a stamping with brute  
 15 force?

16 A Yeah. 5400 ton IHI stamping presses.

17 Q Did you say tons?

18 A Yeah, 5400 ton presses.

19 Q Not pounds?

20 A Right. Correct.

21 Q And when that 5400 tons stamps out a  
 22 part, I imagine that's noisy, isn't it?

23 A Yeah.

18

20

5 (Pages 17 to 20)

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<p>1 Q Do you in that area -- we call it the      2 Stamping Plant; is that correct?      3 A Yes.      4 Q The Stamping Plant, what safety gear do      5 you wear?      6 A I wear sleeves, gloves, eye protection,      7 bump cap. Safety has just designated in the      8 last six months that we need to wear hearing      9 protection and steel-toe shoes.      10 Q So at the time of the Dees incident,      11 you wore helmets, Kevlar sleeves, gloves?      12 A Gloves if you're handling material, the      13 steel material.      14 Q All right. Eye protection?      15 A Yes, sir.      16 Q But not necessarily ear plugs?      17 A Not at that time.      18 Q How about steel-toe shoes?      19 A Yes, sir.      20 Q And you've got on steel-toe shoes now,      21 don't you?      22 A Yes, I do.      23 Q And that safety equipment is basically</p>	<p>1 A Yes.      2 Q And welded down on there?      3 A Yes.      4 Q And I noticed that in walking across      5 the mesh it was recommended that you walk on the      6 angle iron, not on the mesh itself. Is that a      7 good practice?      8 A We walk across it. We've been      9 instructed that it's okay to walk across it.      10 Q Okay. And then the way to get to the      11 different levels is up metal stairs?      12 A Yes, sir.      13 Q And the area where you describe where      14 Mr. Dees was sleeping, the trolleys, are those      15 the devices that sort of hang from the ceiling      16 and parts are carried around on some kind of      17 conveyor system?      18 A Yes.      19 Q You call those trolleys?      20 A Yes.      21 Q And the panel, the SOP panel, why is      22 that -- what does that do?      23 A The SOP panel is the panel that's hung</p>
<p>21</p> <p>1 for the protection of the individual who is in      2 the plant?      3 A Correct.      4 Q And I also noticed in looking at the      5 plant yesterday that it's a very large building,      6 isn't it?      7 A Correct.      8 Q And the levels in the building are      9 floored with what I would call catwalks. Is      10 that a good name for that?      11 A Yeah, that's appropriate.      12 Q And a catwalk would be a metal grate?      13 A Mesh floor.      14 Q Mesh floor. And the mesh is a steel      15 mesh, isn't it?      16 A Correct.      17 Q Almost like a wire, except very heavy      18 gauge metal?      19 A Yes, sir.      20 Q And the mesh is put down on -- what do      21 you call them?      22 A Angle.      23 Q Angle iron?</p>	<p>21</p> <p>1 on the trolley.      2 Q That's hung on the trolley?      3 A By the robots in the automation on the      4 back of the press line.      5 Q The panels that I'm talking about would      6 be the metal panel where Mr. Dees was located.      7 A Oh, the control panel, electrical      8 control panel.      9 Q That's different than the SOP?      10 A Yeah. You've got three levels. You've      11 got the base floor, you've got the second level,      12 which they do the rework for the SOP panels      13 where they have the repair booth and do      14 inspection of those panels, and then the third      15 floor is actually the storage system for the SOP      16 panels.      17 Q So the SOP panels are part of the      18 automobile eventually?      19 A Yeah. That's side outer, the big sides      20 of the car.      21 Q Okay. So what I want to talk about is      22 the control panel where Mr. Dees was.      23 A Electrical control panel.</p>

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<p>1     <b>Q</b> What does that control?</p> <p>2     A That's the -- I guess you'd -- in base</p> <p>3 form, you'd say that's the brain behind the</p> <p>4 operation of the SOP system. It's where they go</p> <p>5 to check faults and reset faults.</p> <p>6     <b>Q</b> What's a fault?</p> <p>7     A If they have any kind of fault in the</p> <p>8 system.</p> <p>9     <b>Q</b> Such as?</p> <p>10    A Maybe a trolley quit, maybe there's a</p> <p>11 low voltage fault on one of the trolley boxes</p> <p>12 and they've got to search for it. Then the</p> <p>13 fault -- the system itself will capture the</p> <p>14 fault and then the system will send out to a</p> <p>15 touch screen and prompt a fault to let</p> <p>16 Maintenance know that they need to fix the</p> <p>17 problem.</p> <p>18    <b>Q</b> And that touch screen is inside the</p> <p>19 control panel?</p> <p>20    A There's one down on the floor between</p> <p>21 the presses.</p> <p>22    <b>Q</b> Well, how does it show up on the</p> <p>23 control panel if there's a fault?</p>	<p>1     <b>Q</b> So was Mr. Dees in Maintenance?</p> <p>2     A Yes, he was.</p> <p>3     <b>Q</b> Would he have to know how to use that</p> <p>4 control panel?</p> <p>5     A He should.</p> <p>6     <b>Q</b> Part of his job?</p> <p>7     A He should, yeah.</p> <p>8     <b>Q</b> Going back to Exhibit 13, the first</p> <p>9 page, Bates number 37, is this statement that</p> <p>10 you signed true and correct?</p> <p>11    A Yeah, the best of my knowledge.</p> <p>12    <b>Q</b> Okay. You don't want to make any</p> <p>13 changes in it, do you?</p> <p>14    A No.</p> <p>15    <b>Q</b> And the second page of that exhibit,</p> <p>16 Bates number 38, is that also true and correct?</p> <p>17    A Yes.</p> <p>18    <b>Q</b> Do you want to make any changes in</p> <p>19 that?</p> <p>20    A No.</p> <p>21    <b>Q</b> Outside of these two documents, there's</p> <p>22 no other documents you reviewed?</p> <p>23    A No.</p>
<p>25</p> <p>1     A Because you can look in the control</p> <p>2 panel and you've got PLC processors in there and</p> <p>3 you'll have input and output analogue blocks.</p> <p>4 And they'll have certain bits that will be</p> <p>5 toggled that you can look it up. Maintenance</p> <p>6 typically has books up there, and they can look</p> <p>7 at which bit light is toggled on on the input or</p> <p>8 output card, and that will indicate to them what</p> <p>9 the fault is.</p> <p>10    <b>Q</b> This may be a simplification, but I</p> <p>11 know on cars nowadays, unlike when I was growing</p> <p>12 up, you can go into your car dealership and they</p> <p>13 can plug in a computer and they can tell what's</p> <p>14 wrong with the car with the computer. Is that a</p> <p>15 simplified way of what this control panel can</p> <p>16 tell you?</p> <p>17    A Yeah.</p> <p>18    <b>Q</b> You can locate where the fault is by --</p> <p>19    A Yeah, they can figure out -- it will</p> <p>20 give them basic error coding, give them an</p> <p>21 understanding of what's wrong. It doesn't tell</p> <p>22 them exactly where the problem is at, but it</p> <p>23 gives them an idea of what's wrong.</p>	<p>27</p> <p>1     <b>Q</b> What was the reason that the second</p> <p>2 statement was taken four days later on Bates</p> <p>3 number 38?</p> <p>4     A There was two situations where -- with</p> <p>5 Team Relations there's an interview with Kevin,</p> <p>6 then there was another interview later. And</p> <p>7 they just wanted to reassure that the</p> <p>8 understanding was the same both times.</p> <p>9     <b>Q</b> Who is they?</p> <p>10    A Team relations.</p> <p>11    <b>Q</b> I mean who? What human being?</p> <p>12    A William Ware is the one that took the</p> <p>13 statements, but whoever he reports to, Audie</p> <p>14 Swegman and Rob Clevenger and those guys.</p> <p>15    <b>Q</b> So what were you told when you --</p> <p>16 before you did the second interview on February</p> <p>17 19, '07?</p> <p>18    A That -- I wasn't really told anything.</p> <p>19 They just told me that we needed to make sure</p> <p>20 that there was a clear understanding of what</p> <p>21 happened on this night of this incident.</p> <p>22    <b>Q</b> Well, is this the first page, Bates</p> <p>23 number 37 -- that's not a clear understanding?</p>

26

28

7 (Pages 25 to 28)

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<p>1 A I thought it was.</p> <p>2 Q So you didn't know why the second one</p> <p>3 was necessary?</p> <p>4 A I didn't understand why they needed</p> <p>5 another one, but whatever they needed, I told</p> <p>6 them, you know, I would sign off on it.</p> <p>7 Whatever information they deemed to make things</p> <p>8 gel up and what was needed, I was willing to do</p> <p>9 what they needed to do.</p> <p>10 Q And why do you think they needed to</p> <p>11 make things gel up?</p> <p>12 A Make sure my story is consistent to be</p> <p>13 fair to the Team Member, because that's Team</p> <p>14 Relations' job to make sure things are fair.</p> <p>15 Q Fair to Mr. Dees?</p> <p>16 A Yes.</p> <p>17 Q Well, you were fair to Mr. Dees on the</p> <p>18 first statement, number 37, weren't you?</p> <p>19 A That's what I seen.</p> <p>20 Q Was there anything -- you thought that</p> <p>21 was complete and accurate, number 37, didn't</p> <p>22 you?</p> <p>23 MR. JOHNSON: Object to the form.</p>	<p>1 Q You're not on drugs? You're not on</p> <p>2 alcohol? You don't have any mental problems</p> <p>3 now?</p> <p>4 A No. My wife tells me I'm nuts</p> <p>5 sometimes, but...</p> <p>6 Q Well, sometimes they're right and</p> <p>7 sometimes they're wrong. But outside of that?</p> <p>8 A No.</p> <p>9 Q On the night in question -- and I think</p> <p>10 that is the date of February 14th, according to</p> <p>11 Exhibit 13, number 37 -- how many people were</p> <p>12 you in charge of supervising?</p> <p>13 A On night shift at that time would have</p> <p>14 been approximately 30.</p> <p>15 Q And were the 30 people scattered around</p> <p>16 the Stamping Plant?</p> <p>17 A Yeah.</p> <p>18 Q And at that time, you were in charge of</p> <p>19 quality, safety, production, those type issues?</p> <p>20 A Yeah. In that position in that place</p> <p>21 when I was working night shift, I was actually</p> <p>22 filling in for the responsibility of the</p> <p>23 assistant manager. When I'm actually in my full</p>
<p>1 A To the best of my knowledge.</p> <p>2 Q Okay. Did Mr. Ware or anybody else</p> <p>3 tell you why it was necessary to make things gel</p> <p>4 up?</p> <p>5 A Me using the term gel up was my</p> <p>6 terminology.</p> <p>7 Q I understand. What did you mean by</p> <p>8 that term?</p> <p>9 A Make sure the story is consistent for</p> <p>10 fairness to the team member.</p> <p>11 Q So fairness to the Team Member would be</p> <p>12 a paramount? Fairness to Mr. Dees would be a</p> <p>13 paramount concern?</p> <p>14 A To team relations and for HMMA Team</p> <p>15 Members in general. People need to be treated</p> <p>16 fair and equal.</p> <p>17 Q Right. And you're not on any</p> <p>18 medication or anything now, are you?</p> <p>19 A No. I've got asthma. Sometimes I take</p> <p>20 albuterol.</p> <p>21 Q All right. Well, there's no reason why</p> <p>22 you cannot testify truthfully today?</p> <p>23 A Correct.</p>	<p>1 responsibility is when I'm on day shift as the</p> <p>2 manager where I'm responsible for both shifts.</p> <p>3 At that time, I was filling in that position for</p> <p>4 assistant manager on night shift.</p> <p>5 Q Who was that?</p> <p>6 A Mr. Rick Harvey, which he resigned and</p> <p>7 moved to a job out in Arizona.</p> <p>8 Q And do you know a Mr. Prater?</p> <p>9 A Yeah, I know Mr. Prater.</p> <p>10 Q What was his job that evening?</p> <p>11 A He was not there that time of night.</p> <p>12 He works day shift as assistant manager over</p> <p>13 Stamping Maintenance.</p> <p>14 Q All right. Was he Mr. Dees' usual</p> <p>15 superior or supervisor?</p> <p>16 A That was his usual supervisor, yes.</p> <p>17 Other than the fact of his Team Leader, Kevin</p> <p>18 Hughes, which he reports to on his shift.</p> <p>19 Q Were you given an orientation when you</p> <p>20 went to work for HMMA?</p> <p>21 A Yeah. Two-week orientation.</p> <p>22 Q What did that cover?</p> <p>23 A It covers benefits as far as your</p>

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1 dental, eye, health, and your different  
 2 coverages, deductible. You had an introduction  
 3 to Team Relations. You had an introduction to  
 4 all the heads of departments and what their  
 5 functions and responsibilities were for each  
 6 department. And then Safety and Payroll and  
 7 Team Relations.

8 Q This was a two-week orientation?  
 9 A Yeah.

10 Q And I'm going to -- your counsel has  
 11 given us your personnel file. I'm going to mark  
 12 that as Exhibit 14. Do you have access to your  
 13 personnel file?

14 A I guess I would. I mean, I've never  
 15 went up and asked them for anything.  
 16

17 (Whereupon, Plaintiff's Exhibit  
 18 Number 14 was marked for identification  
 19 and copy of same is attached hereto.)  
 20

21 Q I'm going to mark the entire thing as  
 22 Exhibit 14. They've got some numbers at the  
 23 bottom of the page. We'll just refer to those

1 257, it has a notice to applicant down at the  
 2 bottom of the page. Did you read that?

3 A The Applicant Notice?

4 Q Right.

5 A Yes, sir.

6 Q Do you know what that means?

7 A Yeah.

8 Q What does it mean?

9 A HMMA endorses the EEO requirements,  
 10 equal employment opportunities for people, and  
 11 doesn't place any discrimination on whatever  
 12 your status is in regards to your background.

13 Q All right. And then on the second  
 14 page, Bates number 257, about a third of the way  
 15 down, it says do you know of any reason why you  
 16 would not be able to perform the various  
 17 functions of the job you're seeking. See that?

18 A Yeah.

19 Q And you checked off no?

20 A Right.

21 Q Did you know what jobs you were seeking  
 22 at the time?

23 A At the time, I had had a recruiter that

33

35

1 for easy reference. And your employment  
 2 application in there begins at number 257.  
 3 Would you turn to that?

4 A 257. Okay.

5 Q And I believe it goes from 257 to 260.  
 6 Would you check those four pages and tell me if  
 7 that's your employment application?

8 A (Witness reviews document.) Yeah.

9 Q That's it?

10 A Yeah.

11 Q And it looks like on Certification on  
 12 last page it says right above your signature --  
 13 I'll just paraphrase. It just says everything  
 14 on here is true and correct. Would that be a  
 15 true statement?

16 A Yes, sir.

17 Q And then it also said any material  
 18 omissions and misstatements are grounds for  
 19 termination?

20 A Yeah.

21 Q You understood that?

22 A Yeah.

23 Q And then if you flip to the first page,

1 contacted me. I had graduated with my Master's  
 2 Degree and I was interested in pursuing other  
 3 opportunities, because at the time, General  
 4 Motors was actually doing salary freezes,  
 5 overtime freezes and there really wasn't much  
 6 opportunity to pursue a better career, better  
 7 profession. So this recruiter contacted me and  
 8 disclosed a position opening to me at Hyundai.  
 9 And at that time, it was assistant manager  
 10 position open in the Stamping Weld Shop. And  
 11 after I went for the first interview, everything  
 12 went extremely well. I came in for the second  
 13 interview, and it went extremely well, also.  
 14 And they actually offered me the Stamping  
 15 Manager's position because of my background of  
 16 experience and the satisfaction of the  
 17 interviews.

18 Q And you were hired into that position?

19 A Yes, sir.

20 Q So you've held the same position from  
 21 start to now?

22 A Correct.

23 Q So you were actually hired into a

34

36

9 (Pages 33 to 36)

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<p>1 management position and still maintain that now?</p> <p>2 A Correct.</p> <p>3 Q And look at number 270. That's</p> <p>4 Acknowledgment of Sexual Harassment Prevention</p> <p>5 Training. It's got a checklist of things that</p> <p>6 you've received.</p> <p>7 A 270?</p> <p>8 Q 270. You signed that?</p> <p>9 A Correct.</p> <p>10 Q And it looks like, for instance, you</p> <p>11 viewed a videotape called Sexual Harassment.</p> <p>12 That's number 3.</p> <p>13 A Yeah.</p> <p>14 Q And you reviewed -- for instance,</p> <p>15 number 8, it says I have received and reviewed a</p> <p>16 copy of HMMA's Serious Misconduct Policy.</p> <p>17 A Yes.</p> <p>18 Q Do you know what the Serious Misconduct</p> <p>19 Policy is?</p> <p>20 A It depends on the circumstances of what</p> <p>21 the employee had done as far as the Serious</p> <p>22 Misconduct Policy applying to them. I don't</p> <p>23 have it memorized verbatim in my head.</p>	<p>1 A Yeah.</p> <p>2 Q All right. Is there anything unclear</p> <p>3 about your testimony so far?</p> <p>4 A No.</p> <p>5 Q Now, Exhibit 15, is that a copy of a</p> <p>6 manual that you would have received, knowing</p> <p>7 that this may not be the exact piece of paper</p> <p>8 that you got?</p> <p>9 A Yeah, this is a Team Member Handbook</p> <p>10 that's been handed out to myself and all the</p> <p>11 Team Members in the plant.</p> <p>12 Q Do you still have your copy?</p> <p>13 A I handed it out to one of my assistant</p> <p>14 managers. He borrowed it right before I went on</p> <p>15 Thanksgiving holiday, and I'm not sure if he</p> <p>16 returned it because I haven't looked for it back</p> <p>17 on my desk.</p> <p>18 Q But you do have a copy when it's not</p> <p>19 loaned out to somebody else?</p> <p>20 A Yes.</p> <p>21 Q And you understand this is the rules</p> <p>22 and regulations of Hyundai with regard to the</p> <p>23 employees?</p>
<p>37</p> <p>1 (Whereupon, Plaintiff's Exhibit</p> <p>2 Number 15 was marked for identification</p> <p>3 and copy of same is attached hereto.)</p> <p>4</p> <p>5</p> <p>6 Q I'm going to mark Exhibit Number 15, a</p> <p>7 copy of a manual called Team Member Handbook,</p> <p>8 and have you take a look at that and see if that</p> <p>9 is something that you received and reviewed.</p> <p>10 A Yes, I have a copy of this.</p> <p>11 Q What did you write down there?</p> <p>12 A Exhibit number.</p> <p>13 Q Exhibit number?</p> <p>14 A Right.</p> <p>15 Q Can I see those notes you're writing</p> <p>16 down?</p> <p>17 A (Witness complied.)</p> <p>18 Q What's the purpose of you keeping your</p> <p>19 own notes in the deposition?</p> <p>20 A Clarity for my own self-purpose.</p> <p>21 Q What self-purpose would that be?</p> <p>22 A Clarity.</p> <p>23 Q For you?</p>	<p>39</p> <p>1 A Yes.</p> <p>2 Q And there's a section in here on</p> <p>3 serious misconduct, I believe, isn't it?</p> <p>4 A Yes, there is. It's under Disciplinary</p> <p>5 section.</p> <p>6 Q And take a look at page 36.</p> <p>7 MR. JOHNSON: Do y'all have an extra</p> <p>8 one?</p> <p>9 MR. KILBORN: I don't but I think it's</p> <p>10 produced.</p> <p>11 Q Serious misconduct starts at the bottom</p> <p>12 of 33 and you go over to page 34, and toward the</p> <p>13 middle and lower part of the document it's got</p> <p>14 listed below are some examples of activities</p> <p>15 that statute serious misconduct at HMMA. You</p> <p>16 see that?</p> <p>17 A Yes, sir.</p> <p>18 Q Are you familiar with those?</p> <p>19 A Like I say, I don't have all of them</p> <p>20 exactly memorized, but if I have something in</p> <p>21 question, that's why we have the handbook for a</p> <p>22 reference tool.</p> <p>23 Q Well, you had to read it and</p>

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<p>1 acknowledge what it said in the beginning,      2 didn't you?      3 A Correct.      4 Q Did you have any questions about these      5 rules?      6 A No, sir.      7 Q And serious misconduct can result in      8 termination, can it not?      9 A It can.      10 Q Okay. All right. And, for instance,      11 the first bullet point under the list it says      12 serious and/or excessive violations of HMMA's      13 attendance program. You see that?      14 A Yes, sir.      15 Q The second bullet point says serious      16 and/or excessive violations of HMMA's      17 performance standards. You see that?      18 A Yes, sir.      19 Q It goes on. It's got quite a few      20 bullet points. Which of these bullet points did      21 Mr. Dees violate?      22 MR. JOHNSON: Object to the form of the      23 question. Are you asking for -- if he knows for   </p>	<p>1 Q Okay.      2 A The second or third one from the      3 bottom.      4 Q Okay. Which other one?      5 A Deliberately using unsafe work      6 practices that might seriously jeopardize the      7 health and safety of the Team Member.      8 Q How did Mr. Dees deliberately use      9 unsafe work practice that might seriously      10 jeopardize the health and safety of the Team      11 Member or a fellow Team Member?      12 A Jeopardizing his own health and safety      13 by sleeping in an area that's considered      14 dangerous.      15 Q How is it considered dangerous?      16 A Because of the moving panels. You have      17 moving sheet steel that moves around the area.      18 And being in a state of not being aware of your      19 surroundings, he could easily put himself in a      20 state of jeopardy to cut himself or get himself      21 hurt.      22 Q So your opinion is Mr. Dees      23 deliberately put himself in a dangerous   </p>
<p>41</p> <p>1 sure, or are you asking what his opinions are?      2 MR. KILBORN: My question will just      3 stand like it is.      4 MR. JOHNSON: Okay. Object to the      5 form.      6 A (Witness reviews document.) Basically      7 in the condition in which he was in the bullet      8 insubordination, including failing to      9 perform assigned work and deliberately      10 performing unsafe work practices.      11 Q Why don't you just take this black felt      12 pen or take your own pen there and just circle      13 the ones that you saw Mr. Dees violate?      14 A (Witness complied.)      15 Q Would you put your initials and today's      16 date by that?      17 A (Witness complied.)      18 Q All right. So we all know since we      19 don't all have copies. Would you read for us      20 both of those so we can markup our copies?      21 A Insubordination, including refusing to      22 perform assigned work or refusing to follow      23 direction of HMMA. Deliberately --   </p>	<p>42</p> <p>43</p> <p>1 situation where he himself might get hurt?      2 A Yes.      3 Q Go back up to the one you marked first,      4 insubordination. Tell me how Mr. Dees was      5 guilty of insubordination as outlined in that      6 bullet point.      7 A He wasn't performing work. He was off      8 his -- lunch period time off in a concealed area      9 asleep.      10 Q Okay. Concealed area?      11 A That's not -- in a hidden area. That's      12 not a trafficked area. There was no problems at      13 the time with the SOP system.      14 Q How did you know that?      15 A Because I was up there.      16 Q And that's why you were up there?      17 A I was up there checking quality      18 problems.      19 Q Quality problems?      20 A Yeah. Quality problems on the CM side      21 outer panel.      22 Q What were the quality problems you were      23 checking?</p>

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1 A For wrinkles and splits on the panel.  
 2 Q Did you have some suspicion that there  
 3 were quality problems?  
 4 A Yeah.  
 5 Q What made that occur to you?  
 6 A We got a call from the Quality  
 7 Department, the Weld Shop, and they had told us  
 8 they'd seen some problems with it. The other  
 9 piece was we had the die back in the shop being  
 10 worked on. We had to bring it back up. We ran  
 11 very close to running the Body Shop out of  
 12 parts. So we had to put the job back in the  
 13 press quickly to get parts to the Weld Shop, and  
 14 we had to check the quality on them quickly also  
 15 to make sure we weren't going to jeopardize the  
 16 customer in shutting down production at the Weld  
 17 Shop.  
 18 Q And do you agree with the fact that  
 19 Mr. Dees should have been terminated for  
 20 violating these two bullet points, Serious  
 21 Misconduct Policies?  
 22 MR. JOHNSON: Object to the form.  
 23 A For any employee taking their own time

1 Now, the part of it that I was not was  
 2 not under the influence on HMMA property.  
 3 Q Well, did you violate that policy you  
 4 just read or not?  
 5 A I don't actually know the policy of  
 6 that, but I know I failed a urine exam when I  
 7 went up to Medical after I had been cut. I had  
 8 been cut through my glove when I was helping  
 9 some Team Members pull some scrap out of the  
 10 scrap shoot. I went to Medical to be treated  
 11 for the laceration I received on my hand, and  
 12 it's protocol for safety incidents to be drug  
 13 tested.  
 14 Q So you got caught with drugs?  
 15 MR. JOHNSON: Object to the form.  
 16 A I had shown up positive in the urine  
 17 sample.  
 18 Q But you didn't expect to be caught, did  
 19 you?  
 20 A I didn't think about it because of the  
 21 time of when the incident happened I had been at  
 22 a party and drinking alcohol.  
 23 Q You got caught?

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1 and not being -- performing the regular job task  
 2 and sleeping on the job, I do have a problem  
 3 with that. I do believe that's a problem  
 4 conflicting with company policy.  
 5 Q So you believe he should have been  
 6 terminated?  
 7 A Yes.  
 8 Q So you agree with that?  
 9 A Yes.  
 10 Q And how many of these serious  
 11 misconduct policies on page 34 and 35 have you  
 12 yourself violated?  
 13 A One of them.  
 14 Q Which one is that?  
 15 A The use of -- use of illegal drugs.  
 16 Q Would you read for us that willful  
 17 misconduct that you yourself violated?  
 18 A Use or possession, sale, transfer or  
 19 being under the influence of illegal drugs,  
 20 alcohol, or other intoxicating substances at any  
 21 time on HMMA property. Gifts of alcohol or  
 22 coolers containing alcohol are prohibited at  
 23 HMMA.

1 A Showed up positive in the urine sample,  
 2 yes.  
 3 Q What about the alcohol? Did they catch  
 4 you with that, too?  
 5 A No.  
 6 Q Did you tell them you'd also been  
 7 drinking alcohol?  
 8 A On the weekend I had, that Saturday,  
 9 but I wasn't at work.  
 10 Q Did you tell them that?  
 11 A Yeah, I disclosed that to the HR  
 12 people, and then also I had to attend a  
 13 substance abuse program -- alcohol and substance  
 14 abuse program for condition of employment.  
 15 Q What was the date you got caught?  
 16 A March the 24th or 5th or 6th somewhere  
 17 in there. Towards the last week of March.  
 18 Q 2007?  
 19 A Yes, sir.  
 20 Q So what happened? You were the  
 21 Stamping Plant manager at that time?  
 22 A Yeah.  
 23 Q In charge of 30 people?

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12 (Pages 45 to 48)

## JAMES ALLEN BROOKSHIRE

1 A Yeah. As the manager, I'd be in charge  
 2 of the whole department then, but at that time,  
 3 I was just in charge of night shift. That would  
 4 be correct.

5 Q How many people on the night shift  
 6 would you be in charge of?

7 A Night shift is 30 people. But the  
 8 department as a whole is around 80 people.

9 Q And you were in charge of the night  
 10 shift then?

11 A Right.

12 Q But you're also in charge of the whole  
 13 department?

14 A Normally.

15 Q Normally. So that would be 80 people?

16 A Correct.

17 Q And you would be in charge of the  
 18 safety of those 80 people?

19 A Correct.

20 Q So you showed up on the job with  
 21 cocaine in your system and alcohol in your  
 22 system and in charge of the safety of 30 people  
 23 in Stamping Plant?

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1 Q Knew what it would do to the human  
 2 brain?

3 A Yes, sir.

4 Q Knew what it would do to your brain?  
 5 MR. JOHNSON: Object to the form.

6 Q Is that correct?

7 A I knew the feeling.

8 Q Right. Well, you knew it was -- it's a  
 9 brain-altering substance, didn't you?

10 MR. JOHNSON: Object to the form.

11 A I know what the feeling is.

12 Q Well, you know it's a mind-altering  
 13 substance, don't you, Mr. Brookshire?

14 MR. JOHNSON: Object to the form.

15 Q You can answer me.

16 A I already have.

17 Q Well, you say you knew what it felt  
 18 like. I want to know did you know what it does  
 19 to the brain.

20 A I had done classes on it. I've had  
 21 classes on it back in high school, Health and  
 22 Science classes.

23 Q So you knew it was an illegal drug;

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1 MR. JOHNSON: Object to the form.  
 2 A I tested positive for -- on a drug  
 3 test, not alcohol.

4 Q Well, but you had been using alcohol?

5 A On the weekend when I wasn't at the  
 6 plant. Correct.

7 Q Well, you said it. I just want to find  
 8 out about it. You had been using alcohol and  
 9 you'd been -- what did you do? Snort cocaine?

10 MR. JOHNSON: Object to the form.

11 A I had had a person at the party hand me  
 12 some out of their pocket.

13 Q Did you snort it?

14 A Yeah.

15 Q How did you know how to ingest it?

16 A During my younger, stupid days I had  
 17 messed around with it in my mid 20s.

18 Q So you used cocaine before?

19 A Yeah, my younger days I had.

20 Q You knew how to snort it?

21 A Yes, sir.

22 Q Knew what it was?

23 A Yes, sir.

1 correct?

2 MR. JOHNSON: Object to the form.

3 A Correct.

4 Q And you knew it was a crime; correct?

5 MR. JOHNSON: Object to the form.

6 A Correct.

7 Q And you knew that it has serious long-  
 8 and short-term effects; correct?

9 MR. JOHNSON: Object to the form.

10 A I'm not an expert on that subject  
 11 matter. I couldn't tell you what the exact  
 12 long-term and short-term effects are on it.

13 Q I thought you said you took some course  
 14 or class on it?

15 A High school.

16 Q In high school. All right. Well, are  
 17 you on drug rehab now?

18 A No.

19 Q Were you ever on drug rehab?

20 A There was a three-week program,  
 21 substance abuse program.

22 Q When were you on that program?

23 A April, first part of May. Three

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13 (Pages 49 to 52)

## JAMES ALLEN BROOKSHIRE

1 weeks. It's a three-week program.	1
2 Q 2007?	2 Q Turn back if you would to the Team
3 A Correct.	3 Member Handbook. That's Exhibit 15. We were
4 Q Put on by who?	4 looking at that earlier. Page 34. That's that
5 A By the HR group. It's -- it was a	5 little list of serious misconduct. How about
6 condition of employment.	6 circling that one that you say you violated and
7 Q You mean --	7 put your name and your initials?
8 A A successful completion.	8 A (Witness complied.)
9 Q So it's Hyundai?	9 Q Have you done that?
10 A Correct.	10 A Yeah.
11 Q So you spent how many weeks in a	11 Q Okay. So you said you had abused
12 Hyundai substance abuse program?	12 cocaine early on in life?
13 A Three weeks.	13 A Yeah.
14 Q Three weeks. Did you get paid for	14 Q Over what period of time?
15 going?	15 A Mid 20s. Between 24 and 26, 27.
16 A Yes.	16 Somewhere around there.
17 Q Did you go on company time?	17 Q And then you're 35 now?
18 A I went on -- you get put on disability.	18 A Excuse me?
19 Q So you were put on disability?	19 Q How old are you now?
20 A Correct.	20 A 35.
21 Q So you got paid as a disabled person?	21 Q 35. And where was this party you were
22 A However the program works. They call	22 at?
23 it -- however it works out. I don't know all	23 A Place over in Prattville.

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55

1 the stipulations.	1 Q Prattville. Whose house?
2 Q What were you told?	2 A Hector.
3 A That I had to complete a successful --	3 Q What's the name?
4 how do I put it -- I had to complete the program	4 A Hector.
5 successfully to maintain my job, and then I	5 Q Hector. What's the full name?
6 would be monitored for two years after at random	6 A Hector. I can't remember his last
7 drug and alcohol screens. And at any point in	7 name. My wife -- my stepdaughter is good
8 time if I tested positive on either one of	8 friends their daughter, and that's why we were
9 those, I would meet immediate termination of my	9 over there. I believe his name is Hector Gomez,
10 employment.	10 I think.
11 Q So were you -- you were still employed	11 Q You didn't know Hector Gomez?
12 while you were on this Hyundai substance abuse	12 A I knew him, yes.
13 program?	13 Q You knew him. It must have been a
14 A Correct.	14 pretty fun party, huh?
15 Q But you didn't receive your regular	15 MR. JOHNSON: Object to the form.
16 salary, you received disability?	16 A It was just a party.
17 A Correct. That was my -- I didn't look	17 Q All right. So it was just a party. So
18 into all that, so I don't know how all that	18 you were drinking alcohol and snorting cocaine
19 works out but I was paid while I was gone.	19 at this party; is that correct?
20 Q All right.	20 A Yeah.
21	21 Q Did you cut it yourself?
22 (Whereupon, a discussion was held off the	22 A No.
23 Record.)	23 Q Who cut it?

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14 (Pages 53 to 56)

## JAMES ALLEN BROOKSHIRE

<p>1 A A guy that I didn't know.      2 Q <b>Did you pay for it?</b>      3 A I didn't know the guy. No.      4 Q <b>It was given to you?</b>      5 A Yeah. He had one of those little --      6 little things that's already cut up in there and      7 they carry it around in a vial. He just...      8 Q <b>You had seen that before?</b>      9 A Yeah.      10 Q <b>Have you used that before?</b>      11 A Yeah, I have.      12 Q I've looked up how cocaine works. One      13 of the descriptions that I found, I'm going to      14 read it to you. See if you agree with it. It      15 causes initially euphoria and a sense of buoyant      16 well-being marked by a feeling of complete      17 self-confidence, as well as pleasant      18 hallucinations, visual and auditory. The peak      19 lift lasts only briefly, however, only 15 to 30      20 minutes. Although, lesser effects last up to      21 two to four hours. Do you know that that's what      22 it does?      23 A Euphoria. I've experienced that with</p>	<p>1 is a stimulant. I mean, you're almost leveled      2 out.      3 Q <b>So you felt leveled out?</b>      4 A (Witness nods head.)      5 Q <b>Is that correct?</b>      6 A Yeah.      7 Q All right. And did you know -- how did      8 you know that the alcohol and cocaine had that      9 effect?      10 A I told you. I had had experience with      11 both of them in the past.      12 Q <b>So you'd actually done both of them in      13 the past together?</b>      14 A I have before, yes.      15 Q So sometimes you'd snort cocaine and      16 use the alcohol to level it out; sometimes you'd      17 use the alcohol and use the cocaine to level it      18 out?      19 MR. JOHNSON: Object to the form.      20 Q <b>Isn't that right?</b>      21 A I guess.      22 Q <b>Well, don't guess. Tell me. What's      23 the truth?</b></p>
<p>1 it, but not hallucinations.      2 Q <b>So you would be immune to that type of      3 effect?</b>      4 MR. JOHNSON: Object to the form.      5 Q <b>Is that correct?</b>      6 A I don't know if anybody is immune to      7 anything. But I can just tell you what I've      8 experienced with it.      9 Q <b>How many other people were there      10 snorting cocaine?</b>      11 A I just know about myself and the other      12 guy that had given me some. I don't know who      13 else.      14 Q <b>And you were drinking alcohol at the      15 same time?</b>      16 A Yes, sir.      17 Q <b>What's the effect of alcohol combined      18 with cocaine?</b>      19 MR. JOHNSON: Object to the form.      20 A I'm not an expert on that. I mean, I      21 can tell you how I felt.      22 Q <b>Yeah. How did you feel?</b>      23 A The alcohol is a depressant. Cocaine</p>	<p>1 A That's what I had done at the time.      2 Q <b>And what time was this party over?</b>      3 A Probably around 11 or 12.      4 Q <b>Midnight?</b>      5 A Probably around there.      6 Q <b>And what time did you go to work?</b>      7 A I didn't go to work until that Monday.      8 That was Saturday night.      9 Q <b>Saturday night. So you didn't know      10 whether or not the cocaine was still in your      11 system, did you?</b>      12 A No. Obviously if I knew that I had      13 done it and done a lot of it, I wouldn't have      14 even went to the hospital to get -- because I      15 know it's a known protocol to get drug tested.      16 Q <b>What was that?</b>      17 A I said obviously if I knew that I had      18 done a lot of it and intentionally done it, I      19 wouldn't have even went up to the hospital to      20 get treatment for my cut.      21 Q <b>So when you cut yourself, you knew      22 that you were going to get drug tested, didn't      23 you?</b></p>

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## JAMES ALLEN BROOKSHIRE

<p>1 A Yeah.</p> <p>2 Q Why didn't you just fess up before they</p> <p>3 found it?</p> <p>4 A Because I didn't acknowledge it because</p> <p>5 of the state I was in in intoxication and</p> <p>6 drinking alcohol.</p> <p>7 Q You were still intoxicated?</p> <p>8 A No. Not at that time, no. But at the</p> <p>9 time I had done the cocaine I had been.</p> <p>10 Q All right. And there's various</p> <p>11 nicknames for this stuff. Which one do you use?</p> <p>12 A I just call it coke.</p> <p>13 Q Coke. Have you ever heard it referred</p> <p>14 to as flake or free base or lady or nose candy</p> <p>15 or rock snow or anything like that?</p> <p>16 A I've heard it called snow before, but</p> <p>17 that's about it.</p> <p>18 Q How about big C?</p> <p>19 A Huh-uh.</p> <p>20 Q How about blow?</p> <p>21 A I have heard of that because I've seen</p> <p>22 a movie called Blow.</p> <p>23 Q Okay. Before you went on this Hyundai</p>	<p>1 A Like I said, I knowingly didn't think</p> <p>2 it was in me.</p> <p>3 Q You wouldn't have volunteered it, would</p> <p>4 you?</p> <p>5 A No.</p> <p>6 Q How about a hair sample? Did they take</p> <p>7 a hair sample?</p> <p>8 A They didn't take one.</p> <p>9 Q Did somebody else take one?</p> <p>10 A Did somebody...</p> <p>11 Q You can take hair samples and find out</p> <p>12 about cocaine use, too, can't you?</p> <p>13 A I don't know. I know you can find it</p> <p>14 in urine, and I understand that you can find it</p> <p>15 in blood but I don't know about hair.</p> <p>16 Q Well, I was giving you what I thought</p> <p>17 was your whole personnel file. Why isn't this</p> <p>18 drug test in your personnel tile?</p> <p>19 A Why what?</p> <p>20 Q I don't see the drug test, the urine</p> <p>21 test in personnel file. Why isn't it in there?</p> <p>22 A I couldn't answer. I'm guessing they</p> <p>23 probably keep that in Medical Department or</p>
<p>1 drug treatment program, had you ever been on any</p> <p>2 other drug treatment programs?</p> <p>3 A No.</p> <p>4 Q And with cocaine in your system and</p> <p>5 managing 30 people that day you don't feel like</p> <p>6 you had created an unsafe work practice?</p> <p>7 MR. JOHNSON: Object to the form.</p> <p>8 A It wasn't in my system at work. I</p> <p>9 wasn't at work.</p> <p>10 Q Well, it was in your system because</p> <p>11 they found it on the job, didn't they?</p> <p>12 A I tested positive in urine, but I</p> <p>13 wasn't knowingly taking it at work or going to</p> <p>14 work taking it.</p> <p>15 Q So it was in your urine; correct?</p> <p>16 A Correct.</p> <p>17 Q Well, why did they take a urine sample</p> <p>18 if all you came in there for was a cut?</p> <p>19 A It's protocol for every safety incident</p> <p>20 to be drug tested.</p> <p>21 Q And if they hadn't found it in your</p> <p>22 urine sample, you wouldn't have volunteered it,</p> <p>23 would you?</p>	<p>1 Teams Relations keeps it. I'm not sure.</p> <p>2 Q Did the 30 people under your</p> <p>3 supervision while you had cocaine in your</p> <p>4 system -- did they know that you had cocaine in</p> <p>5 your system?</p> <p>6 MR. JOHNSON: Object to the form.</p> <p>7 A No.</p> <p>8 Q You think they would have entrusted you</p> <p>9 with their safety if they had known you had</p> <p>10 cocaine in your system?</p> <p>11 MR. JOHNSON: Object to the form.</p> <p>12 A I'm not sure. I can't answer that for</p> <p>13 them.</p> <p>14 Q Well, would you trust somebody</p> <p>15 supervising you in a dangerous plant like that</p> <p>16 with cocaine in their system?</p> <p>17 MR. JOHNSON: Object to the form.</p> <p>18 A I can't -- I mean, I know how I had</p> <p>19 felt when I was on it. I can't -- I can't...</p> <p>20 Q So are you -- you made a medical</p> <p>21 determination that you weren't affected by this</p> <p>22 cocaine and that's why you went to work?</p> <p>23 MR. JOHNSON: Object to the form.</p>

## JAMES ALLEN BROOKSHIRE

1 A No.  
 2 Q Well, why did you go to work with this  
 3 stuff in your system?  
 4 MR. JOHNSON: Object to the form.  
 5 A Because I knowingly wasn't -- obviously  
 6 the urine sample tested positive. But you  
 7 yourself just read that the effects last how  
 8 long?  
 9 Q Well, I just read the short-term  
 10 effects. Do you want me to read you the  
 11 long-term effects?  
 12 A That's with how much usage?  
 13 Q Well, what are the long-term effects?  
 14 You've been through the program. Did you learn  
 15 what they are?  
 16 MR. JOHNSON: Object to the form.  
 17 Q Tell me what you learned.  
 18 A With serious usage and consumption, you  
 19 will have problems down the road with lower  
 20 dopamine samples in your brain internally.  
 21 Q Okay. Well, other than lower dopamine,  
 22 what other long-term effects are there?  
 23 A Depression.

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1 Q So you took the risk with your safety  
 2 and the safety of your fellow workers that some  
 3 of those effects might take place, didn't you?  
 4 MR. JOHNSON: Object to the form.  
 5 A At the time when I was under it, that  
 6 was the short-term side effects.  
 7 Q How do you know you haven't suffered  
 8 long-term side effects?  
 9 A I'm not a medical expert. I can't  
 10 justify that. But I know in the past -- from  
 11 what I understand of that class after you  
 12 discontinue use of it, your dopamine levels will  
 13 come back and level out and your mindset is  
 14 normal.  
 15 Q But you didn't know that at the time  
 16 you got caught, did you?  
 17 A No.  
 18 Q And you think showing up at work with  
 19 cocaine in your system is not near as bad as  
 20 sleeping on the job, is it?  
 21 MR. JOHNSON: Object to the form.  
 22 A I can't -- I can't answer that one.  
 23 Q Well, you're a manager. What do you

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1 Q So you've never suffered anything like  
 2 rapid heartbeat?  
 3 A Instantaneously you do.  
 4 Q How about rapid breathing?  
 5 A Instantaneously you do.  
 6 Q How about soaring blood pressure?  
 7 A Instantaneously.  
 8 Q How about palpitations?  
 9 A I don't know about that one.  
 10 Q Sweating?  
 11 A Yeah.  
 12 Q Severe headache?  
 13 A No.  
 14 Q Pallor?  
 15 A What's that?  
 16 Q Pale. You haven't ever suffered that?  
 17 A Huh-uh.  
 18 Q And you do know that use of cocaine can  
 19 sometimes result in heart failure and death,  
 20 don't you?  
 21 MR. JOHNSON: Object to the form.  
 22 A My understanding taking of that class  
 23 in mass quantities it can.

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1 think?  
 2 A To me, it would depend on if the person  
 3 just done it or if they'd been off of it for a  
 4 couple of days. To me, there's a big  
 5 difference. There's the quick effects and the  
 6 long-term effects. The quick effects, I  
 7 wouldn't trust somebody at work. Just like with  
 8 alcohol or somebody experiences problems and  
 9 uncontrolled states and drinking excessive  
 10 amounts of coffee and caffeine.  
 11 Q So you equate cocaine usage to drinking  
 12 coffee?  
 13 A If I drink two or three cups of coffee  
 14 and did a snort of that, yeah, I would.  
 15 Q Have you ever heard of a Hyundai coffee  
 16 abuse program?  
 17 A No, they don't do that because coffee  
 18 is legal.  
 19 Q Have you ever served any time in prison  
 20 for this cocaine habit?  
 21 A No, sir.  
 22 MR. JOHNSON: Object to the form.  
 23 Q Did Hyundai report you to law

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17 (Pages 65 to 68)

## JAMES ALLEN BROOKSHIRE

1 enforcement?  
 2 A I have no idea.  
 3 Q Have you ever bought the cocaine?  
 4 A In the past when I was younger, I --  
 5 MR. JOHNSON: Just a second.  
 6 Obviously, object to the form of the question.  
 7 I'm not sure it's relevant here. But  
 8 additionally to the extent that I don't want him  
 9 to make any statements that might get him into  
 10 criminal jeopardy.  
 11 MR. KILBORN: Well, he can take the  
 12 Fifth Amendment. But I want to know the answer  
 13 to that question. This is the eye witness to  
 14 this case who has been caught red handed using  
 15 cocaine, showed up at the Hyundai plant with it  
 16 in his system in a managerial position, given a  
 17 pass, wasn't terminated, around the time that  
 18 these incidents occurred. I want to go into  
 19 that. I think it's a credibility issue.  
 20 MR. JOHNSON: And I understand your  
 21 point. However -- and we've allowed him to  
 22 testify fully about his cocaine usage and you've  
 23 asked him plenty of questions about what

1 cocaine?  
 2 MR. JOHNSON: Again, same response  
 3 there. My advice is that he not answer. He  
 4 pleads the Fifth Amendment and is not answering.  
 5 Q Have you ever had possession of drug  
 6 paraphernalia?  
 7 MR. JOHNSON: Again, same response to  
 8 that issue.  
 9 Q Are you taking the Fifth Amendment on  
 10 that, too?  
 11 A Yes.  
 12 Q Well, you committed a felony, right,  
 13 prior to showing up at work, didn't you?  
 14 MR. JOHNSON: Object to the form. And  
 15 same response to that question.  
 16 Q You take the Fifth Amendment on that?  
 17 A Yes.  
 18 Q Well, don't you think commission of a  
 19 felony would be willful misconduct under  
 20 anybody's definition?  
 21 MR. JOHNSON: Object to the form.  
 22 A I think that condition lies within the  
 23 company's policies. That's not something that I

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1 happened at work. But beyond that, I see no  
 2 relevance, and I can't imagine anything -- I'm  
 3 not a criminal lawyer, and my recommendation to  
 4 him is to seek criminal counsel if he's going to  
 5 testify beyond what he's already testified to.  
 6 MR. SPORT: Well, he indicated he was  
 7 represented by counsel today, so direct him not  
 8 to answer.  
 9 MR. JOHNSON: Well, then, I direct him  
 10 not to answer that question.  
 11 MR. KILBORN: Well, I'm going to pursue  
 12 this. You can direct him not to answer.  
 13 Q Are you refusing to answer whether or  
 14 not you have ever purchased cocaine?  
 15 MR. JOHNSON: Under my advice, he is.  
 16 Q All right. Have you ever sold cocaine?  
 17 MR. JOHNSON: Again, we would also --  
 18 my advice is that he not answer that and he will  
 19 not answer that.  
 20 MR. KILBORN: Is he taking the Fifth  
 21 Amendment?  
 22 MR. JOHNSON: Yes.  
 23 Q Have you ever had possession of

1 solely determine myself.  
 2 Q Well, you -- on your application we  
 3 reviewed a minute ago in Bates number 258, you  
 4 said on your application do you know of any  
 5 reason why you would not be able to perform  
 6 various functions of the job you're seeking  
 7 now. Wouldn't you agree that snorting cocaine  
 8 could impair you in performing your job?

9 MR. JOHNSON: Object to the form.  
 10 A If I had deliberately done it right  
 11 before I went to work or during work, I would  
 12 agree with that.

13 Q Suppose you had not deliberately done  
 14 it.  
 15 A I think I would know if I had  
 16 deliberately done it or not right before I went  
 17 to work or not.

18 Q Well, why didn't you reveal in this  
 19 application that you were basically a cocaine  
 20 abuser?

21 MR. JOHNSON: Object to the form.  
 22 A At the time in which this application  
 23 was filled out, I wasn't. And to get a job at

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## JAMES ALLEN BROOKSHIRE

1   Hyundai, I had to take a drug test; hair test,  
2   blood test, and urine.  
3   **Q   So you do know what a hair test is?**  
4   A   At that time they took it. But what  
5   you asked me was if I knew if it showed up on it  
6   or what it takes to show up on it. I don't  
7   know.  
8   **Q   So you took a hair test, a blood test,**  
9   **and a urine test?**  
10   A   Yeah.  
11   **Q   But you knew you were going to have to**  
12   **take that; right?**  
13   A   I what?  
14   **Q   You knew to get a job you were going to**  
15   **have to take that drug screen, didn't you?**  
16   A   Not necessarily. I know you've got to  
17   take urine tests to get jobs.  
18   **Q   Well, you knew -- you'd consented to**  
19   **taking a drug test on your application, didn't**  
20   **you?**  
21   A   Right.  
22   **Q   So you knew they were going to test you**  
23   **for cocaine and any other drug, didn't you?**

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1   **Q   All right. So you made the judgment as**  
2   **a manager that since you felt physically free of**  
3   **the effects of cocaine you could go in there and**  
4   **supervise 30 workers?**  
5   MR. JOHNSON: Object to the form.  
6   **Q   Is that correct?**  
7   A   I felt confident in my physical  
8   condition in which I appeared to work on Monday.  
9   **Q   Well, apparently, Hyundai didn't feel**  
10   **confident in that, did they?**  
11   MR. JOHNSON: Object to the form.  
12   A   They were following protocol for a  
13   positive test on a urine sample.  
14   **Q   Well, do you know why Hyundai has got a**  
15   **policy against drug usage?**  
16   A   I wouldn't be able to tell you all the  
17   reasons why. I mean, I didn't make the policy  
18   and I wouldn't be able to tell you what -- all  
19   the reasons why.  
20   **Q   Well, tell me one reason why.**  
21   MR. JOHNSON: Object to the form.  
22   A   Probably with deliberate or current  
23   usage it probably would debilitate the judgment,

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1   A   Yeah, I knew they was going to take a  
2   urine test. Most jobs, places conditions of  
3   employment do call for urine samples.  
4   **Q   So you knew full well not to use**  
5   **cocaine before you did that?**  
6   A   I never knew what the actual period was  
7   it stayed in your system until I took the class.  
8   **Q   Well, how do you know it didn't stay in**  
9   **your system for a year if you didn't know before**  
10   **you took the class?**  
11   A   I guess I wouldn't.  
12   **Q   How do you know it didn't stay in your**  
13   **system for a week?**  
14   A   I guess I wouldn't.  
15   **Q   Well, how do you know it wouldn't stay**  
16   **in your system for at least 48 hours?**  
17   A   (No response.)  
18   **Q   How do you know it wouldn't have stayed**  
19   **in your system from the midnight you left the**  
20   **party until the five a.m. when you showed up**  
21   **Monday morning?**  
22   A   You just know the condition which you  
23   feel physically at the time.

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1   activities, and reasoning of the individual.  
2   **Q   Well, this policy doesn't require**  
3   **that. It just says if you're using drugs that's**  
4   **a willful misconduct, doesn't it?**  
5   MR. JOHNSON: Object to the form.  
6   **Q   Excuse me?**  
7   A   If that's the way it's worded, that's  
8   the way it's worded.  
9   **Q   Now, let's turn to Bates number 282 of**  
10   **your personnel file, Exhibit 14. That's a memo**  
11   **from Wendy Warner to James Brookshire. That's**  
12   **you. Have you ever seen that before?**  
13   A   Yeah, I signed that.  
14   **Q   It says management TM. Whose signature**  
15   **is that?**  
16   A   Management TM. Oh, you mean Team  
17   Relations rep?  
18   **Q   Well, MGMT TM. Whose signature is**  
19   **that?**  
20   A   Are you talking about where it says  
21   management TM REL?  
22   **Q   No. Right above that.**  
23   A   Management TM, Wendy Warner.

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## JAMES ALLEN BROOKSHIRE

1     Q   And then where it says management TM  
 2 REL, whose signature is that?  
 3     A   Rob Clevenger.  
 4     Q   He would be your superior?  
 5     A   Team Relations Representative.  
 6     Q   Okay.  
 7     A   Same person that would represent  
 8 Mr. Dees. Well, him or William Ware.  
 9     Q   So Mr. Clevenger has full knowledge of  
 10 your drug use?  
 11    A   He knows -- he has knowledge of this  
 12 incident and violation of this policy.  
 13    MR. JOHNSON: Object to the form.  
 14    Q   And so does Ms. Warner?  
 15    MR. JOHNSON: Object to the form.  
 16    A   I presume.  
 17    Q   What happened to you after this urine  
 18 test showed the presence of cocaine? What  
 19 happened to you after that?  
 20    A   I was admitted to a program,  
 21 three-week -- well, they gave me the option of a  
 22 three-week program or a six-week program.  
 23    Q   Were you told -- were you threatened

1    to let me know that it was policy; that they  
 2    needed to follow protocol; that I either needed  
 3    to self-admit or they would admit me to a  
 4    program. And failure to complete or admit  
 5    myself to the program would end in termination  
 6    of employment.

7     Q   Is this program on the premises of  
 8 Hyundai?

9     A   No.

10    Q   Where is it?

11    A   It's -- I think they have a couple  
 12 different places, but the one I went to is  
 13 Alabama Psych.

14    Q   Give me the name of that.

15    A   I think they call it APS.

16    Q   APS. And you attended that daily?

17    A   Yeah, every day for three weeks.

18    Q   All day?

19    A   Yeah.

20    Q   Where is it located?

21    A   Carmichael Parkway.

22    Q   In Prattville?

23    A   Montgomery.

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1    with termination?  
 2    A   If I did not complete the program --  
 3 did not submit myself to the program or complete  
 4 the program with success, then, yes, I would be  
 5 terminated.  
 6     Q   And who told you that?  
 7     A   That was told to me by Wendy.  
 8     Q   And where was this meeting with  
 9 Ms. Warner?  
 10    A   Up in HR.  
 11    Q   In her office?  
 12    A   Well, they've got conference rooms  
 13 along the wall there.  
 14    Q   Was it a private conference room?  
 15    A   Yeah.  
 16    Q   Nobody else listening?  
 17    A   Rob was there.  
 18    Q   Rob Clevenger was there?  
 19    A   Yeah.  
 20    Q   Well, tell me what happened.  
 21    A   They informed me that Medical had  
 22 contacted them and informed them of the status  
 23 or condition of my urine sample and they wanted

1     Q   And it's called APS?  
 2     A   Yeah.  
 3     Q   How many other people were in that  
 4 program?  
 5     A   At the time I had started, there was  
 6 four other people, but they weren't from  
 7 Hyundai. They were other people in the program.  
 8     Q   Right. And did you get drug screens  
 9 during that program?  
 10    A   Oh, yeah.  
 11    Q   Every day?  
 12    A   It varied. They wouldn't tell you.  
 13 They wouldn't tell you. It would be in the  
 14 morning, in the afternoon, lunchtime.  
 15    Q   Did you tell them about your alcohol  
 16 abuse?  
 17    A   Yeah.  
 18    MR. JOHNSON: Object to the form.  
 19    A   Yes, I did.  
 20    Q   Is that a 12 Step program?  
 21    A   Yeah.  
 22    Q   And what step are you in right now?  
 23    A   I had -- part of that program was I had

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20 (Pages 77 to 80)

## JAMES ALLEN BROOKSHIRE

1 to attend AA meetings as well and get signatures  
 2 from representatives of AA meetings.

3     **Q So you were simultaneously going to the**  
 4 **drug rehab program with APS as well as AA?**

5     A Yeah.

6     **Q And how did you end up in AA?**

7     A Because the position that was given by  
 8 my therapist and the psychiatric doctors that  
 9 were there, they had clinically diagnosed that  
 10 it wasn't a substance abuse problem that I  
 11 have. They had seen with the disposition of my  
 12 family in the past with my mother being an  
 13 alcoholic and my grandfather being an alcoholic  
 14 and -- and I had admitted to them that I would  
 15 drink on weekends but I did not drink during the  
 16 week while I was working. But I admitted it to  
 17 them. And they had ran me through, like I said,  
 18 with the psychiatrist and the therapist that's  
 19 what they deemed the most important thing was  
 20 for me to attend AA meetings.

21     **Q What was the name of the psychiatrist?**

22     A Dr. Shaw, I believe.

23     **Q Is he a medical doctor?**

1     A That's part of their meetings. That's  
 2 part of their protocol. There's people there  
 3 that hadn't drank in ten years and they've still  
 4 got to stand up and say that.

5     **Q Well, you had to stand up and say that,**  
 6 **didn't you?**

7     A That would be correct.

8     **Q And you had to stand up and say that in**  
 9 **the drug abuse program, too, regarding drugs,**  
 10 **didn't you?**

11     MR. JOHNSON: Object to the form.

12     A What do you mean? Stand up in the drug  
 13 program?

14     **Q Well, you had to admit that you were**  
 15 **addicted to drugs, that's why you were there.**

16     A That wasn't the clinical analysis that  
 17 was done by the doctor or the therapist.

18     MR. JOHNSON: Object to the form.

19     **Q Did you stand up and admit that?**

20     A Admit what?

21     **Q That you were addicted to drugs?**

22     A No. I admitted I made a stupid  
 23 decision one night.

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1     A I don't know what -- all of his  
 2 classifications. I believe he was a  
 3 psychiatrist. I know that much.

4     **Q And what's the name of the therapist?**

5     A Jena Empy.

6     **Q E-M-B-Y?**

7     A E-M-P-Y.

8     **Q And what is she?**

9     A She's a licensed therapist. And I  
 10 don't know what all of her credentials were, but  
 11 she was a licensed therapist.

12     **Q And the first step in either the 12**  
 13 **point drug abuse program or the 12 point alcohol**  
 14 **abuse program is admission that you are addicted**  
 15 **to alcohol and/or drugs, isn't it?**

16     MR. JOHNSON: Object to the form.

17     A The AA meeting it was admitting that  
 18 alcohol could have control over your life.  
 19 Meaning that it can be a problem in your life.

20     **Q Well, you have to get up there and say**  
 21 **my name is Jim Brookshire and I'm an alcoholic.**  
 22 **You have to make that admission, don't you?**

23     MR. JOHNSON: Object to the form.

1     **Q One night; right?**

2     A That would be correct.

3     **Q Okay. And let's go back to this Bates**  
 4 **number 282, Plaintiff's Exhibit 14. At the time**  
 5 **of this -- well, it says on March 27, 2001, HMMA**  
 6 **received confirmation as a result of your random**  
 7 **drug screen. When was the actual date that you**  
 8 **were caught?**

9     A It was somewhere around March the 25th,  
 10 26th. Somewhere right around there. I can't  
 11 remember. It was on a Tuesday or Wednesday.

12     **Q And it says in here that it's got four**  
 13 **conditions; is that correct?**

14     A Yeah.

15     **Q One, you had to attend a substance**  
 16 **abuse assessment session scheduled through**  
 17 **HMMA's Medical Clinic. Was that done?**

18     A Yes.

19     **Q Said you were required to comply with**  
 20 **all aspects of the prescribed rehab program.**  
 21 **Was that done?**

22     A Yeah.

23     **Q Said you must agree to allow HMMA**

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21 (Pages 81 to 84)

## JAMES ALLEN BROOKSHIRE

1 Medical Clinic to monitor your progress and  
 2 communicate with the assessment and  
 3 rehabilitation provider.  
 4 A Yeah.  
 5 Q That was accomplished?  
 6 A Yeah.  
 7 Q And then it said any future use or  
 8 possession of illegal and/or nonprescription  
 9 drugs or being under the influence of alcohol or  
 10 nonprescription drugs and/or illegal drugs while  
 11 on HMMA premises will subject you to corrective  
 12 action up to and including termination. You  
 13 understood that?  
 14 A Yeah. They told me that without a  
 15 doubt I'd be -- anything happened again I'd be  
 16 terminated. And I've been -- part of their  
 17 process also is I'm subjected to random  
 18 drug/alcohol tests every month. I get two to  
 19 three tests every month. It's been going on  
 20 since then.  
 21 Q Outside of Ms. Warner and Mr. Clevenger  
 22 who else at the Hyundai plant knows that?  
 23 A I couldn't tell you. I don't know.

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1 Q So at the time that you saw Mr. Dees  
 2 sleeping on the job, you were an alcoholic and  
 3 you did abuse alcohol; is that correct?  
 4 MR. JOHNSON: I'm sorry. I  
 5 misunderstood that. What was that?  
 6 Q At the time you saw Mr. Dees sleeping  
 7 and reported him, you were an alcoholic and you  
 8 were abusing alcohol; is that correct?  
 9 MR. JOHNSON: Object to the form.  
 10 A I had no deliberate use of alcohol at  
 11 the time, but on the weekend I had a drink.  
 12 Q Well, how do you not deliberately use  
 13 alcohol?  
 14 A Like if I knew I was going into work  
 15 that afternoon drinking a few beers before I  
 16 went in to work.  
 17 Q And I don't mean to embarrass you and  
 18 there are a lot of people who are recovering  
 19 alcoholics. But were you an alcoholic on the  
 20 day you saw Dees sleeping?  
 21 A What's your definition of an  
 22 alcoholic?  
 23 Q Whatever your definition is. You're

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1 Q Did anybody ask you why did you  
 2 disappear?  
 3 A I had Team Members ask me that.  
 4 Q Who asked you that?  
 5 A Just Team Members on the floor. They  
 6 said is everything okay. Because they knew my  
 7 wife and I had had some marital problems, too.  
 8 Q Well, had your cocaine use caused  
 9 marital problems?  
 10 A No.  
 11 Q You hesitated. Are you sure?  
 12 A No.  
 13 Q How about your alcohol abuse?  
 14 MR. JOHNSON: Object to the form.  
 15 A Alcohol did interfere with it in the  
 16 sense that my wife and I would have serious  
 17 arguments and I would walk out of the house and  
 18 go to the garage and drink a few beers, drink a  
 19 six-pack or so just to not listen to her because  
 20 she was unhappy about the move down here.  
 21 Q Y'all didn't go through the unfortunate  
 22 experience of getting in a divorce, did you?  
 23 A No.

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1 the expert.  
 2 A I'm not an expert.  
 3 MR. JOHNSON: Object to the form.  
 4 Q Well, you've been through the program.  
 5 A From my understanding the clinical  
 6 definition is I was a conditional alcoholic.  
 7 Q And you were that on the day you saw  
 8 Dees sleeping?  
 9 A A conditional alcoholic on the weekends  
 10 when my wife and I would have altercations.  
 11 Q And that alcoholism had led to serious  
 12 problems with your wife?  
 13 MR. JOHNSON: Object to the form.  
 14 A No. It was due to the stress of the  
 15 move and going through a custody battle with my  
 16 wife's ex-husband.  
 17 Q And if you had been terminated for  
 18 being positive drug tested for cocaine, what do  
 19 you think that would have done to your  
 20 employment career?  
 21 A Probably dismantled it.  
 22 Q And that would have been a severe  
 23 emotional as well as financial blow to you,

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## JAMES ALLEN BROOKSHIRE

<p>1   <b>wouldn't it?</b></p> <p>2       MR. JOHNSON: Object to the form.</p> <p>3       A   Yeah, it would have been a trial 4       sometime.</p> <p>5       <b>Q   You would have had trouble getting a</b> 6       <b>job, wouldn't you?</b></p> <p>7       MR. JOHNSON: Object to the form.</p> <p>8       A   I can't -- I can't say that. I don't 9       know.</p> <p>10      <b>Q   So you've never been in a position of</b> 11      <b>having been terminated and tried to get a job?</b></p> <p>12      A   No.</p> <p>13      <b>Q   Well, Mr. Dees is now in that position,</b> 14      <b>isn't he?</b></p> <p>15      MR. JOHNSON: Object to the form.</p> <p>16      A   I don't know what he's doing right 17       now. I can't speak for that.</p> <p>18      <b>Q   Well, you wouldn't want termination to</b> 19      <b>be a black mark on your employment record, would</b> 20      <b>you?</b></p> <p>21      MR. JOHNSON: Object to the form.</p> <p>22      A   I mean, if it's -- if something like 23       that happens, it happens. I mean, I can't...</p>	<p>1       of 24 months. You see that?</p> <p>2       A   Yes.</p> <p>3       <b>Q   So you are a conditional employee,</b> 4       <b>aren't you?</b></p> <p>5       A   (Witness nods head.)</p> <p>6       <b>Q   Is that correct?</b></p> <p>7       A   That would be correct.</p> <p>8       <b>Q   All right. So basically you're on</b> 9       <b>probation today, aren't you?</b></p> <p>10      A   Correct.</p> <p>11      <b>Q   With Hyundai; is that correct?</b></p> <p>12      A   Correct.</p> <p>13      <b>Q   And you know that the slightest</b> 14      <b>misbehavior on your part is going to result in</b> 15      <b>immediate termination, don't you?</b></p> <p>16      MR. JOHNSON: Object to the form.</p> <p>17      A   That's my understanding.</p> <p>18      <b>Q   And Mr. Clevenger and Wendy Warner, as</b> 19      <b>well as the other Hyundai officials, they've</b> 20      <b>basically got life and death authority over your</b> 21      <b>job right now, don't they?</b></p> <p>22      MR. JOHNSON: Object to the form.</p> <p>23      A   I don't know about they have sole</p>
<p style="text-align: center;">89</p> <p>1       <b>Q   Well, do you agree with me that</b> 2       <b>termination is a black mark on your employment</b> 3       <b>record?</b></p> <p>4       A   I'm sure it would be a problem.</p> <p>5       <b>Q   Would you agree with me that</b> 6       <b>termination for drug abuse like cocaine would be</b> 7       <b>a black mark on your employment record?</b></p> <p>8       A   Probably would be.</p> <p>9       <b>Q   And at the time you were caught red</b> 10      <b>handed with cocaine in your system, you were the</b> 11      <b>only eye witness to Mr. Dees sleeping, were you</b> 12      <b>not?</b></p> <p>13      MR. JOHNSON: Object to the form.</p> <p>14      A   I was the person that seen him 15       sleeping. That would be correct.</p> <p>16      <b>Q   And you had signed two statements to</b> 17      <b>that effect, hadn't you?</b></p> <p>18      A   Correct.</p> <p>19      <b>Q   And in this document we're looking at,</b> 20      Bates number 228, signed by you, Wendy Warner, 21      and Mr. Clevenger, it says -- in the last 22      sentence it says this Letter of Conditional 23      Employment will remain in your file for a period</p>	<p style="text-align: center;">91</p> <p>1       control or life or death. That falls in my 2       lap. That's my responsibility to control my 3       destiny through this issue.</p> <p>4       <b>Q   So you're going to be on conditional</b> 5       <b>employment for two years?</b></p> <p>6       A   Correct.</p> <p>7       <b>Q   So your conditional employment is going</b> 8       <b>to end when?</b></p> <p>9       A   Probably as of the date that I signed 10      on here, two years after that, '09.</p> <p>11      <b>Q   April '09?</b></p> <p>12      A   April '09.</p> <p>13      <b>Q   When is the last time you had used</b> 14      <b>cocaine before you got caught at the Hyundai</b> 15      <b>plant?</b></p> <p>16      A   I don't know. I was probably around 25 17       or 26. Somewhere right around there. I can't 18       recall exactly. That was ten years ago, eight 19       years ago.</p> <p>20      <b>Q   Were you addicted to it?</b></p> <p>21      A   No. I was more or less experimenting. 22      Experimenting. Kind of a recreational -- 23      recreational-type thing. You're around some</p>

## JAMES ALLEN BROOKSHIRE

1 people that were doing some of that stuff  
 2 sometimes, so it's kind of a stupid thing of  
 3 peer pressure, just fitting in, not making a  
 4 sound judgment on it at that time.

5     **Q Are you in charge of enforcing the drug**  
 6 **and alcohol abuse policy at the Hyundai plant in**  
 7 **your job as Stamping manager?**

8     A As far as enforcing the policy, if I  
 9 have an employee that I suspect that is doing  
 10 something like that or acting out in some way,  
 11 shape, or form, they are sent to Medical and  
 12 then dealt with through a process. As far as me  
 13 following through and dictating all that, that's  
 14 not my scope.

15     **Q When's the last time you've been**  
 16 **randomly drug tested?**

17     A I think the Wednesday or Thursday right  
 18 before Thanksgiving week.

19     **Q Two weeks ago?**

20     A Yeah.

21     **Q What did it show?**

22     A Negative.

23     **Q Who gets the results of that?**

1 information. And I note that a document related  
 2 to it was in his file that was produced, which  
 3 is Bates number 282. And I'd like for y'all to  
 4 produce that today so I can ask him questions  
 5 about it.

6     And I would also point out that cocaine  
 7 usage is a serious problem. Cocaine usage can  
 8 affect one's ability to recollect, one's  
 9 observation capabilities. There are long-term  
 10 effects, which I think could bear on his  
 11 credibility.

12     MR. JOHNSON: If we can just take a  
 13 quick break. Let me and Chris go discuss that  
 14 issue, and then we'll get back with you.

15     (Whereupon, a brief recess was had in  
 16 the proceeding.)

19     MR. KILBORN: I have requested prior to  
 20 the break the files on the Hyundai substance  
 21 abuse program treatment that the witness has  
 22 testified about as being relevant to credibility  
 23 issues clearly since he's the only eye witness

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1     A My understanding -- from what I  
 2 understand, Medical people give the results to,  
 3 I believe, HR, I believe.

4     **Q I want to take a break.**

5     MR. KILBORN: Matt, I'd like to get his  
 6 entire file regarding this cocaine incident.

7     MR. SMITH: Make a request.

8     MR. KILBORN: Well, I think it's  
 9 covered by our current discovery. It should  
 10 have been in his personnel file.

11     MR. SMITH: It's at ICM. It's  
 12 maintained in separate files.

13     MR. JOHNSON: The current request  
 14 that's outstanding that we responded to has to  
 15 do with the personnel file. This is a  
 16 completely separate medical file that contains  
 17 medical information, private health information  
 18 that employers, as I understand it, must keep  
 19 separately from general everyday personnel  
 20 info.

21     MR. KILBORN: I know. Well, we do have  
 22 a protective order. I do think it's covered by  
 23 our request. I do think it's relevant

1 in the case and the presence of cocaine in his  
 2 system was a short time after this incident took  
 3 place. As I understand, counsel has refused to  
 4 produce that on the grounds that, one, it hasn't  
 5 been requested and, two, that it's in the  
 6 possession of some other company called ICM.  
 7 And my position on the latter would be that it's  
 8 within Hyundai's possession, custody, or  
 9 control. Control being the operative word. And  
 10 I'm requesting it now so that I will not have to  
 11 come back and redepose the witness on the  
 12 subject matter of that since he's such a  
 13 critical witness in the case.

14     MR. JOHNSON: Is that -- are you --  
 15 have you stated your case?

16     MR. KILBORN: Yes.

17     MR. JOHNSON: And just for the Record,  
 18 again, as Mr. Kilborn has stated, medical  
 19 records or anything related to the personal  
 20 health information of Mr. Brookshire or any  
 21 other witness in the case has not been requested  
 22 and as such has not been identified or produced  
 23 in discovery in this case. To the extent a

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<p>1 request is made, it will be addressed      2 appropriately and in a timely fashion. We do      3 not have that information here today in part      4 because it wasn't requested and as such we are      5 not in a position to produce it today.</p> <p>6 Secondly, and perhaps of equal      7 practical importance, it is our understanding      8 that the Medical Department information is kept      9 on an outsource basis by a third-party and those      10 documents would not be available on site at HMMA      11 today. It may be possible to get them if they      12 had been timely and appropriately requested, but      13 it's our understanding that is likely not the      14 case.</p> <p>15 MR. KILBORN: Will you state on the      16 Record whether or not Hyundai does have control      17 of those documents such that if they requested      18 them they could get them?</p> <p>19 MR. JOHNSON: Had they been timely      20 requested, we could have gotten them and      21 responded appropriately.</p> <p>22 MR. KILBORN: Well, I'm going to      23 continue.</p>	<p>1 question is if that appears to be a sketch of      2 this control panel is an accurate sketch?      3 A I can't remember if it's got three or      4 four doors, but I believe it's got three and      5 then it's got the sheet metal platform below it.      6 Q So your testimony is it's accurate?      7 A (Witness nods head.) Yeah.      8 Q Is that a yes?      9 A Yes.      10 Q Do you see a chair in the sketch?      11 A Yes, I do.      12 Q Was that chair there on the night of      13 the incident in question?      14 A Yeah, the chair was about where it was      15 up against the middle of the cabinet.      16 Q The middle door?      17 A The middle door.      18 Q Mr. Dees was sitting in that chair?      19 A Yes.      20 Q And what is this -- appears to be some      21 type of object here and it's facing -- the      22 control panel would be on the left of the      23 sketch, bottom left?</p>
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<p>1      2 (Whereupon, Plaintiff's Exhibit      3 Number 16 was marked for identification      4 and copy of same is attached hereto.)      5      6 BY MR. KILBORN:      7 Q Mr. Brookshire, let me give you a copy      8 of a document marked Plaintiff's Exhibit 16 and      9 ask you if you would look at the front and back      10 of that and tell me if you recognize either the      11 front or the back.      12 A (Witness reviews document.) I've never      13 seen this document.      14 Q Do you know who drew the sketch on the      15 back?      16 A No.      17 Q Do you know what that's a sketch of?      18 A It's the control cabinet upstairs.      19 Q Is it accurate?      20 A Is this sketch saying that the doors      21 were open or the doors were closed?      22 Q All I know is that I was given that      23 sketch, so I can't answer your question. My</p>	<p>1 A I don't recall that object being      2 there. I remember the chair being back up      3 against the cabinet, the middle door, facing      4 forward.      5 Q Was the back of the chair touching the      6 middle door?      7 A I couldn't tell you exactly if it was      8 touching the door or not. I know it was close      9 to back up towards the middle of the door -- or      10 middle door.      11 Q How far in your judgment?      12 A It was pretty close to the door.      13 Q Inches?      14 A Probably four inches or less.      15 Q And was the chair in the position      16 indicated on the drawing that Mr. Dees was      17 sitting in?      18 A The position I can recall was the chair      19 was facing parallel going off the platform which      20 it's sitting on, not angled, parallel in the      21 direction of the platform up towards the middle      22 door.      23 Q So the chair was sitting square on --</p>
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<p>1 up against or close to the middle door facing      2 directly toward you?</p> <p>3 A Correct.</p> <p>4 Q All right. And that's as opposed to      5 being at the angle it appears in the sketch?</p> <p>6 A Correct.</p> <p>7 Q And you did not see some object that      8 appears at the lower left of that sketch?</p> <p>9 A I don't recall any object being there.</p> <p>10 There could have been a wire spool or something      11 off maybe close to the cabinet or off to the      12 side but I didn't see that.</p> <p>13 Q You did not see a wire spool?</p> <p>14 A If that's what that drawing is supposed      15 to be, I didn't see that.</p> <p>16 Q How about taking your pen there and      17 drawing a circle around what appears to be a      18 wire spool?</p> <p>19 A (Witness complied.)</p> <p>20 Q And draw a little line around there and      21 just put a line to your initials and today's      22 date so we'll know that's you today instead of      23 at the time it was drawn.</p>	<p>1 A What I can tell what the chair looked      2 like it's an office chair. It came from the      3 office.</p> <p>4 Q Was that the first time you'd ever seen      5 that chair?</p> <p>6 A I don't recall seeing -- I've seen      7 ladders. I've seen ladders there, but I don't      8 recall seeing that specific chair sitting there      9 right there in front of the door.</p> <p>10 Q So that would have been an unauthorized      11 chair?</p> <p>12 A Yeah, because the office chairs are not      13 supposed to leave the office.</p> <p>14 Q All right.</p> <p>15 A Unless they have assigned chairs in      16 break areas or conference rooms or something      17 like that.</p> <p>18 Q Had that chair ever been there before?</p> <p>19 A Not that I can recall. Like I said,      20 all I've ever seen there has been a ladder.</p> <p>21 Q And immediately after the incident      22 where you saw Mr. Dees in the chair asleep was      23 the chair removed?</p>
<p>101</p> <p>1 A (Witness complied.)</p> <p>2 Q And that object you do not recall      3 seeing was there?</p> <p>4 A No, sir.</p> <p>5 Q All right. Would your testimony be      6 that it was not there?</p> <p>7 A It was not there.</p> <p>8 Q Okay. Do you know who drew the sketch      9 that shows it there?</p> <p>10 A No idea.</p> <p>11 Q What would a wire spool be doing there?</p> <p>12 A Maybe if they had made some engineering      13 changes or some wiring changes inside this      14 cabinet and they had a wire spool there to run      15 input bits or something. I don't know.</p> <p>16 Q There would be no other purpose for a      17 wire spool to be there?</p> <p>18 A (Witness shakes head.)</p> <p>19 Q You have to say yes or no.</p> <p>20 A No.</p> <p>21 Q What was the chair doing there?</p> <p>22 A That's a good question.</p> <p>23 Q Where did the chair come from?</p>	<p>103</p> <p>1 A After the fact? After time passed?</p> <p>2 Q Right.</p> <p>3 A Yeah.</p> <p>4 Q Who removed it?</p> <p>5 A I'm not sure. I don't know who removed      6 it.</p> <p>7 Q That would have taken place February      8 14, 2007. How long after that approximately      9 would it have been removed?</p> <p>10 A I can't recall that, sir. I mean, I      11 didn't remove the chair. I didn't tell my      12 people to remove the chair. So I can't account      13 for who removed the chair and when it actually      14 was removed. I don't know.</p> <p>15 Q So the chair was an unauthorized piece      16 of equipment?</p> <p>17 A Yeah.</p> <p>18 Q And is your job -- part of your job to      19 remove unauthorized equipment from the plant?</p> <p>20 A I've never -- I've never been in charge      21 of removing -- we make notes of stuff like that,      22 or I've had chairs in -- office chairs come out      23 in other break areas where we -- out of break</p>

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1 areas and in places where they shouldn't be.  
 2 And presuming that we have heard some other  
 3 people had been sleeping, we removed those  
 4 chairs immediately. I know there have been some  
 5 chairs located in other areas and we've removed  
 6 and disposed of the chairs.

7     **Q** So are you telling me that it was  
 8 fairly common to find employees sitting in  
 9 chairs sleeping?

10    MR. JOHNSON: Object to the form.

11    A No, that wasn't common, but we had  
 12 found some chairs that we had presumed that  
 13 people were using for that purpose and we  
 14 disposed of the chair.

15    **Q** To sleep in a chair?

16    A I'm guessing or having a break in the  
 17 chair off somewhere where it wasn't supposed to  
 18 be outside of a standard break area.

19    **Q** Were there two chairs on that level?

20    A I can't recall. This whole platform up  
 21 here is a mesh platform. And if you had set the  
 22 chair anywhere outside of here, your legs would  
 23 go through the platform.

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1     **Q** And those are the same three doors you  
 2 saw; correct?

3     A Yeah.

4     **Q** And the door on the left of the  
 5 drawing, which side of that door looking at the  
 6 drawing, left or right, is it hinged in the  
 7 drawing?

8     A Looking at the drawing?

9     **Q** Right.

10    A Going by this drawing, I would say it's  
 11 hinged on the right side looking at the left  
 12 door.

13    **Q** All right. Draw an arrow down there  
 14 and put the word hinged and today's date and  
 15 your initials.

16    A (Witness complied.)

17    **Q** Now, and looking at the drawing on  
 18 the -- regarding the door on the right side of  
 19 the drawing looking directly at it, which side  
 20 of that door on the right is that door hinged in  
 21 the drawing?

22    A Looking at the right door, it's hinged  
 23 on the left-hand side.

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1     **Q** So you have no information about  
 2 another chair on that level?

3     A No. I know there was plywood --  
 4 there's a piece of plywood up on that mezzanine  
 5 and I remember there was a ladder but that was  
 6 on the opposite side.

7     **Q** Was there a chair on the plywood?

8     A I can't recall, because at the time,  
 9 our senior director of Engineering Maintenance  
 10 done a great job. He actually got that stuff  
 11 cleaned up up there. But I can't recall. I  
 12 remember there was a ladder there because  
 13 sometime when they've got to work on those  
 14 trolleys they've got to pull a ladder out and  
 15 they can't put a ladder on that wire mesh  
 16 because it will wobble. So they've got to move  
 17 that piece of plywood around if they've got to  
 18 work on a trolley. But another chair...

19    **Q** Looking at Plaintiff's Exhibit 16, the  
 20 reverse side, the sketch, and looking directly  
 21 at the control panel, you see three doors, do  
 22 you not?

23    A Correct.

1     **Q** Go ahead and write hinged.  
 2     A (Witness complied.)

3     **Q** And the door in the middle is hinged on  
 4 its left or right side looking at the drawing?

5     A Looking at the drawing the handle is on  
 6 the left-hand side of the door, so it would have  
 7 to be hinged on the right.

8     **Q** Okay. Now, I've heard that somehow or  
 9 another Mr. Dees had used the doors to provide a  
 10 hiding place. Is that your recollection?

11    A My recollection is at the time of this  
 12 incident the doors may have been cracked open  
 13 because sometimes Maintenance doesn't completely  
 14 shut the doors so they can easily access the  
 15 panel. But my recollection was the doors were  
 16 mostly shut. I can't account if they were  
 17 exactly locked shut but they were mostly shut.  
 18 As far as him using that routinely and opening  
 19 the doors to hide, I don't know.

20    **Q** You didn't see door panels -- excuse  
 21 me -- you didn't see doors open to the extent  
 22 that you thought they were being used by  
 23 Mr. Dees as a blind to hide behind?

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1       MR. JOHNSON: Object to the form.  
 2       A   What I can tell you is the day of the  
 3   incident that I seen him I can't tell you  
 4   whether the doors were completely locked or not,  
 5   but they weren't wide open.  
 6       **Q** Well, in your opinion, since you were  
 7   the only one there besides Mr. Dees, were the  
 8   doors positioned so they made a blind to assist  
 9   in hiding?  
 10      MR. JOHNSON: Object to the form.  
 11      A   I can't really see how opening these  
 12   doors hides him from anything.  
 13      **Q** I can't either, but that's not my  
 14   question.  
 15      A   This is the third floor, and when  
 16   you're down here, this door is going to hide you  
 17   from a crane coming at you and that door hides  
 18   you from an elevator. So there's really...  
 19      **Q** So if you wanted to hide, you wouldn't  
 20   open the door panels looking at this drawing on  
 21   the left or right because the visibility would  
 22   be --  
 23      A   Down below.

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1       hide Mr. Dees while he was sleeping?  
 2       A   It's not my testimony. I mean, what I  
 3   can tell you I can account for is how I  
 4   recollect the chair being positioned and how I  
 5   remember the doors being.  
 6       **Q** And you were the only one there besides  
 7   Mr. Dees?  
 8       A   Correct.  
 9       **Q** Do you know where Hyundai got  
 10   information that two doors on the control panel  
 11   were used as a blind to hide Mr. Dees?  
 12       A   No.  
 13       **Q** And, in fact, as you told me, if you  
 14   had opened the control panel doors to use them  
 15   as a blind on the left and right doors looking  
 16   at the drawing, it wouldn't be hiding you from  
 17   visibility anyway because the visibility is from  
 18   the front not the side?  
 19       A   Visibility is from the bottom.  
 20       **Q** As a matter of fact, if you're standing  
 21   over here on the right of the drawing, you're  
 22   going to fall off into an abyss because there's  
 23   nothing there, is there?

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1       **Q** -- down below --  
 2       A   Correct.  
 3       **Q** -- looking up and there's no door panel  
 4   to hide you there?  
 5       MR. JOHNSON: Object to the form.  
 6       A   You're hidden by this floor plate. You  
 7   can't see through it because it's not mesh.  
 8       **Q** Does it appear to you in that sketch on  
 9   the reverse of Exhibit 16 that one has drawn the  
 10   left and right doors to make it appear they were  
 11   open to the extent that maybe they would provide  
 12   some cover or a blind of some type?  
 13      MR. JOHNSON: Object to the form.  
 14      A   To me, it just looks like somebody has  
 15   drawn an electrical cabinet with the doors open  
 16   with a chair in it, and that to me doesn't -- to  
 17   me, I mean, they could have been looking at a  
 18   problem in either cabinet and left the door open  
 19   for all I know. I mean, I -- as far as somebody  
 20   setting something up like that, I don't know.  
 21       **Q** So is it your testimony that -- is it  
 22   your testimony that two of the doors on the  
 23   control panel were opened and used as a blind to

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1       A   There's a little bit of an entranceway  
 2   and then right here is an elevator that brings  
 3   the trolleys up.  
 4       **Q** That elevator is just an open area,  
 5   isn't it?  
 6       A   Right.  
 7       **Q** Maybe, what, 15 by 15?  
 8       A   Probably.  
 9       **Q** So if somebody was standing there  
 10   they'd be talking to St. Peter?  
 11       A   Yeah, they'd fly off.  
 12       **Q** So if Mr. Dees was trying to make a  
 13   blind out of the control panel doors, he would  
 14   have had to somehow or another taken the door  
 15   off and stuck it in front of him, wouldn't he?  
 16      MR. JOHNSON: Object to the form.  
 17      A   To me, it's the approach of it. I  
 18   mean, you access it -- like if you -- this  
 19   walkway, there's a walkway or trolley  
 20   entranceway that comes down here. If you were  
 21   over here, like if you accessed and came up to  
 22   this elevator and came up over here and you were  
 23   right here and that door was open, that would

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1 conceal him from there. But if you came around  
 2 the front, then you would see him. Back over  
 3 here, there's nothing here, and then you access  
 4 from the front or the bottom. But the bottom is  
 5 hidden by the floor plate.

6     **Q** You came up directly -- you would have  
 7 been facing Dees, correct, and facing the  
 8 control panel?

9     A Correct. I was off -- maybe like if it  
 10 was here, I was a little off coming in at this  
 11 angle.

12    **Q** So when you came up, you could clearly  
 13 see him?

14    A Yeah.

15    **Q** He wasn't behind a blind or anything?

16    A No.

17    **Q** And I know there are quite a bit of  
 18 scuff marks on that plate in front of the  
 19 control panel. What causes that?

20    A Scuff marks on the plate?

21    **Q** Scuff marks, yeah.

22    A I don't know. I mean, depends on what  
 23 the Maintenance guys do over there. Like I

1 the panels because that's the easiest way to  
 2 look for splits and wrinkles is from the  
 3 backside of the panel. I had an LED flashlight  
 4 with me shining through there checking the  
 5 panels. I had a flashlight in one hand and a  
 6 stone in the other. And then I put the stone  
 7 away because I was going over there to check --  
 8 check -- because we were running them on the  
 9 press at the time, so they were coming in on the  
 10 entry lane over here.

11    **Q** That would be on the left side of the  
 12 drawing look at it?

13    A Yes. And I came and I -- and that's  
 14 the first lane. And that would be the first  
 15 lane.

16    **Q** So you're writing the words first lane  
 17 on there?

18    A Yeah.

19    **Q** Make sure you put a date by anything  
 20 you write on there.

21    A Okay. And you've got two lanes.

22 You've got an entry lane that comes in here and  
 23 then a -- where the trolleys are coming down

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1 said, I've seen ladders over there. I have no  
 2 idea. Multiple things cause scuff marks. I  
 3 mean, down on our other floor, we've got scuff  
 4 marks on our platforms from laying scrap panels  
 5 down. Every time you lay those panels down it  
 6 chips the paint and flakes the paint.

7     **Q** And describe for me your actions in  
 8 coming up to the third floor where Mr. Dees was,  
 9 or the third level -- you call it a level or a  
 10 floor?

11    A Third floor, third level.

12    **Q** Describe what happened as you came up  
 13 there.

14    A I was coming up the third floor, like I  
 15 said earlier, to check on some CM side outer  
 16 right-hand panels for splits and waves. I come  
 17 in through the entranceway there at the stairway  
 18 and came over between the panels to the row 6  
 19 and row 7 because that's their storage lane for  
 20 those panels. And I wanted to check the panels  
 21 that we had in there to see if we had good  
 22 panels to get to our customer. And I was coming  
 23 between the lanes to look at the backsides of

1 this lane, and then you've got a return lane  
 2 where empty trolleys are going down to this  
 3 elevator that goes to the presses. And that  
 4 circles back around actually above this area  
 5 here. And I was coming in here at the sixth  
 6 lane if you're looking at it from this way --  
 7 the sixth lane and the seventh lane.

8     **Q** And you're putting the letters sixth  
 9 and seventh there?

10    A Yeah.

11    **Q** Go ahead and put your initials and date  
 12 there.

13    A And I was coming down in between these  
 14 lanes with the flashlight checking these  
 15 panels. I come to the end, and it's kind of  
 16 hard. You've got to flip this around. But  
 17 there's two -- two lanes. You've got your lane  
 18 going around from the reworks station coming up  
 19 from the elevator. It comes up and comes across  
 20 right in front of here. And then you have the  
 21 other lane that comes off 6 and 7 to go to the  
 22 drop down station for the elevator in the  
 23 opposite direction. So I was wanting to check

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1 panels and make sure we had good panels going to  
 2 the customer. And then that's when I had to  
 3 come to a stop because we had panels making lane  
 4 changes and that's when I looked over there and  
 5 seen Leon over there. And I was probably 30  
 6 feet right there at the end, because it's  
 7 probably from -- towards the end of the lane  
 8 right here to there it's about 30 feet, 25 to 30  
 9 feet. Somewhere around in there. And then this  
 10 went by and I had to wait for the other lane to  
 11 go by. And then I crossed through and went  
 12 here, and that's probably 15 to 20 feet. Right  
 13 in there in the middle I squelched my radio. I  
 14 turned my radio up to squelch it. Because I had  
 15 called the guys down on the floor to let them  
 16 know what I had seen as far as quality issues.  
 17 Then I was crossing across to go here. And then  
 18 I seen Leon and I squelched my radio. Kind of  
 19 like, hey, here's the alarm clock, wake up, wake  
 20 up. So I was hurrying. Once the panels came  
 21 through, I went over here to check the first  
 22 trolleys that were coming through. We'd just  
 23 run them off the press and they'd just came up.

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1 told his Team Leader what I saw.

2 Q Well, when you saw him last up there on  
 3 the third level, he was looking sleepy and  
 4 groggy?

5 A He had the look of somebody just seen  
 6 him doing something he wasn't supposed to be  
 7 doing. To me, he appeared to be fishing for  
 8 something to do, the reason why he was up  
 9 there. Because normally we don't go up to the  
 10 third level unless there's a problem.

11 Q So he was --

12 A Normally nobody is up there unless we  
 13 had a problem. We didn't have a trolley problem  
 14 because we were running fine. We were just  
 15 waiting on the panels to make it to the Weld  
 16 Shop. We was running them off the press.

17 Q So Mr. Dees was basically creating a  
 18 ruse acting like he was doing something when he  
 19 really wasn't?

20 MR. JOHNSON: Object to the form.

21 A What it appeared to be to me was he had  
 22 came out of a stance off that chair having a  
 23 surprised look on his face that I was up there.

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1 I was circling around going through here waiting  
 2 for those to come by and I was going to this  
 3 first -- I think there was probably five -- five  
 4 right in here. And then I was checking the  
 5 quality on them, going around the backside of  
 6 the panel and checking the quality.

7 After that that's when I noticed he had  
 8 gotten up out of his chair and grabbed what they  
 9 call -- we call them fishing poles, but they're  
 10 actually brake release poles. They use them on  
 11 the trolleys. We've got a mechanical brake on  
 12 there that actually releases the trolleys so  
 13 Maintenance can move the trolley out of  
 14 position. And I had seen him grab that brake  
 15 pole. He like jumped up out of the chair and he  
 16 grabbed the brake pole, and I'm wondering why he  
 17 grabbed the brake pole because we weren't having  
 18 any problems. All the trolleys were moving at  
 19 the time. And then after point after I made  
 20 that, I went back by and he was over here just  
 21 walking around looking at trolleys when I walked  
 22 back by and went back down the stairs. And then  
 23 within that next half an hour, that's when I

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1 Q And you say surprised look on his face?  
 2 A Kind of like where did I come from kind  
 3 of a look.

4 Q And the first time you saw Mr. Dees  
 5 sitting in the chair how many feet away were  
 6 you?

7 A 25. 20, 30. Somewhere right around in  
 8 there.

9 Q How close did you get to him?

10 A Probably around 15 to 20. Because  
 11 you've got the two lanes that run through here,  
 12 the return lane from rework and then the feed  
 13 lane. And I went in between those lanes.

14 Q And you say when you -- what did you  
 15 say you did with your radio?

16 A Squelched it.

17 Q Squelched your radio. What did he do?

18 A He didn't do anything.

19 Q Nothing?

20 A (Witness shakes head.)

21 Q And what's the next thing you saw him  
 22 do?

23 A That's when -- like I said, I went

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1 through there and squelched my radio. And I was  
 2 on my mission to get these panels to the Weld  
 3 Shop, because our priority is to make sure the  
 4 Weld Shop doesn't run out of parts, don't shut  
 5 the Weld Shop down. So we're going through  
 6 here, cutting through here -- well, not we're --  
 7 I'm cutting through here, and I just squelched  
 8 my radio. And I'm over here getting ready to  
 9 check these panels and make sure they're okay.  
 10 I go over here and flashlight them from the  
 11 front side and then go to the backside. And  
 12 when I go to the backside obviously the door  
 13 openings are there, and that's when I realized  
 14 he -- he was like up out of the chair grabbing  
 15 one of the fishing poles.

16 Q Well, did he like jump out of the  
 17 chair?

18 A He was already up out of the chair just  
 19 moving around. He had one of the poles in his  
 20 hand.

21 Q Where had he gotten the pole from?

22 A Normally the Maintenance guys will  
 23 leave them like laying with the -- there's like

1 Q That's the kind of look you saw?  
 2 A Yeah. Kind of (indicating).  
 3 Q And when you first saw him, he was dead  
 4 asleep, wasn't he?

5 MR. JOHNSON: Object to the form.

6 A The position I seen him in, he appeared  
 7 to be asleep just like I made in my statement  
 8 with his hat on and the way his legs were  
 9 extended and the posture that he exhibited in  
 10 the chair.

11 Q Did you see his eyes?

12 A No, I didn't see his eyes.

13 Q Were his eyes opened or closed?

14 A I can't honestly tell you that because  
 15 he had a hat on, because we've got to wear a  
 16 bump cap. And he had the hat on. He was  
 17 positioned like this (indicating).

18 Q And he was sitting in the chair?

19 A Yes.

20 Q And when you made your radio make that  
 21 chirping sound, he didn't move?

22 A I didn't see him move.

23 Q Okay. Well, he didn't move as far as

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1 a fence over here. They'll leave them laying on  
 2 the floor up against the fence or leave them on  
 3 this side laying up against the fence like on  
 4 the mesh floor leaning up against the guardrail.

5 Q So was he looking real guilty, wasn't  
 6 he?

7 MR. JOHNSON: Object to the form.

8 A I can't say a person is guilty. I can  
 9 just say that the person -- that Mr. Dees  
 10 appeared to me that he had this surprised look  
 11 on his face, where did I come from.

12 Q And you knew Mr. Dees, didn't you?

13 A Yeah, I knew Mr. Dees.

14 Q So you would know what a surprised look  
 15 on his face was; right?

16 MR. JOHNSON: Object to the form.

17 A How personal are you saying I knew  
 18 him? Because I talked to him as a person. But  
 19 as an expert knowing all of his integral aspects  
 20 of his life, I don't know that. But I can tell  
 21 when somebody kind of gives a look like where  
 22 did you come from or what are you doing here  
 23 kind of look.

1 you know?

2 A Right.

3 Q So that didn't wake him up, the  
 4 chirping sound?

5 A (No response.)

6 Q Excuse me?

7 A At that point I guess it didn't because  
 8 he didn't move when I squelched my radio. Like  
 9 I said, I walked by and I squelched the radio.  
 10 And if anybody's ever been up there, you can  
 11 feel vibrations in that platform when you're  
 12 walking. I don't know if the vibrations  
 13 actually got him or what happened, but I know I  
 14 squelched my radio, no movement, and I was on my  
 15 way to go check the panels. I did not stay  
 16 there and stare at him to see if he got up after  
 17 I squelched the radio.

18 Q Why didn't you go over there and say,  
 19 hey, Leon, wake up?

20 A Because at the time I thought the  
 21 squelching of the radio and me walking across  
 22 the platform would get him up. And I was, like  
 23 I said, on my way to check the panels and make

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1 sure that they were on the way to the Body Shop  
 2 and make sure we were making good quality panels  
 3 to go to the Body Shop.  
 4 **Q Well, you knew that chirping the radio**  
 5 **hadn't woken him up, didn't you?**  
 6 MR. JOHNSON: Object to the form.  
 7 A I'm not for sure.  
 8 **Q Well, you didn't see any activity?**  
 9 A I knew it chirped and I didn't stand  
 10 there and stare at him.  
 11 **Q You did not see him wake up, did you?**  
 12 A No.  
 13 **Q All right, sir. As far as you knew**  
 14 **when you walked back off, he was still asleep,**  
 15 **wasn't he?**  
 16 MR. JOHNSON: Object to the form.  
 17 A From my recollection you can say that.  
 18 **Q And he only was awake as far as you**  
 19 **knew is when you came back and he was up**  
 20 **pretending like he was doing something with the**  
 21 **pole?**  
 22 A He had the pole in his hand. Correct.  
 23 **Q Is it noisy up there with the trolleys**

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1 danger, wouldn't it?  
 2 MR. JOHNSON: Object to the form.  
 3 A It could put him in danger.  
 4 **Q You left where you saw him sleeping**  
 5 **without making sure he was awake or attempting**  
 6 **to wake him?**  
 7 A I did attempt to wake him, and I didn't  
 8 leave the area. And you could rest assured if  
 9 he was still in that chair after I looked at  
 10 those two racks or two trolleys of panels, I  
 11 would have went over there and talked to him.  
 12 **Q But you didn't?**  
 13 A He was already up.  
 14 **Q Well, when you found him already up why**  
 15 **didn't you go over and say something to him**  
 16 **about what you had seen?**  
 17 A Because I'm not his direct supervisor.  
 18 That's not for me to address.  
 19 **Q Well, you were his supervisor on this**  
 20 **shift, weren't you?**  
 21 A No, no.  
 22 **Q I thought you were substituting for**  
 23 **the --**

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1 **and everything?**  
 2 A The trolleys are pretty quiet. Down  
 3 towards the presses is where the noise is at.  
 4 **Q Did you wear earplugs?**  
 5 A Up on the third floor you don't have to  
 6 wear them, or the SOP booth. But down around  
 7 the press areas, you're supposed to wear  
 8 earplugs.  
 9 **Q Did you have earplugs?**  
 10 A No. Because at that time hearing  
 11 protection wasn't mandatory yet. I believe it  
 12 was around late spring to early summer is when  
 13 they -- Safety mandated hearing protection.  
 14 **Q Did he have earplugs?**  
 15 A I couldn't vouch for that at that  
 16 time. It depends on what type of hearing  
 17 protection he might have had, it would be hard  
 18 to tell. If he had the ones without the cords  
 19 in it, they could be up in his ears and I  
 20 wouldn't see them unless I was really close to  
 21 him.  
 22 **Q Well, you would agree that sleeping on**  
 23 **the job would certainly put Mr. Dees himself in**

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1 A Assistant manager. That would be  
 2 correct. But Maintenance is not a direct report  
 3 to me. Greg Prater is his direct report.  
 4 **Q But you did not report to Mr. Prater,**  
 5 **did you?**  
 6 A Oh, yeah, I did the next day, along  
 7 with my senior manager, Craig Stapely.  
 8 **Q But not then?**  
 9 A No. That was one in the morning. I  
 10 wasn't going to call Craig -- or Greg and wake  
 11 him up in the middle of the night. Now, if  
 12 Kevin called him maybe he did, but I don't know  
 13 if Kevin did or not. But I reported it to Kevin  
 14 within a half hour.  
 15 **Q And how long did you observe him**  
 16 **sitting in this sleeping position?**  
 17 A To be honest with you about the time I  
 18 come out of these two lanes and come through  
 19 there and squelched my radio, from the time I  
 20 went through here and cut between those trolleys  
 21 and made it over there, it couldn't have been  
 22 probably more than a minute. A minute to two  
 23 minutes at the most.

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<p>1     <b>Q</b> You observed him sleeping for two      2 minutes?</p> <p>3     A Probably around that time frame.</p> <p>4     <b>Q</b> Did he have a cell phone in his hand?</p> <p>5     A Not that I could see.</p> <p>6     <b>Q</b> What time of night was it?</p> <p>7     A Probably right around one o'clock. It      8 was after lunch on second shift.</p> <p>9     <b>Q</b> One a.m.?</p> <p>10    A Yeah.</p> <p>11    <b>Q</b> And you say he had his head down?</p> <p>12    A Yeah.</p> <p>13    <b>Q</b> Had he made a pillow of some type?</p> <p>14    A I didn't see any type of pillow.</p> <p>15    <b>Q</b> Was he wearing a jacket?</p> <p>16    A I can't recall whether he was or      17 wasn't.</p> <p>18    <b>Q</b> Did he have on his sleeves?</p> <p>19    A I can't recall whether he did or      20 didn't. You're supposed to. I can tell you      21 that. If he had his jacket on, I would not have      22 been able to tell if he had sleeves on.</p> <p>23    <b>Q</b> Had he somehow or another fashioned his</p>	<p>1     eating with the guys that went on the second      2 lunch at 12:15. I usually only take about a 15-      3 to 20-minute lunch.</p> <p>4     <b>Q</b> What time did you finish lunch?</p> <p>5     A Probably around 12:30, 12:40. And then      6 I went out to check the press and see if they      7 were getting it started making those parts out,      8 calling the AM down at the Body Shop and let him      9 know we had the job in the press and we were      10 trying to make some side outers.</p> <p>11    <b>Q</b> So you have a clear recollection it was      12 after you had finished your lunch around      13 12:30 a.m.?</p> <p>14    A Yeah.</p> <p>15    <b>Q</b> When I was there yesterday I saw these      16 huge big lights. Were the lights on?</p> <p>17    A They're spotty. They're energy-saving      18 lights. So spontaneously some of them will shut      19 off for energy consumption savings.</p> <p>20    <b>Q</b> Were the lights on that night?</p> <p>21    A Some were.</p> <p>22    <b>Q</b> How about the lights around the control      23 panel?</p>
<p>129</p> <p>1     jacket into some type of pillow?</p> <p>2     A Not that I could recall. I never seen      3 his jacket in any way, shape, or form rolled up      4 around him or anything.</p> <p>5     <b>Q</b> What makes you think that the time was      6 around one a.m.?</p> <p>7     A It was after lunch. It was after lunch      8 on night shift.</p> <p>9     <b>Q</b> And lunch on night shift is when?</p> <p>10    A The way it's broke up is typically      11 between 11:15 and midnight and the other one is      12 from midnight to 12:45.</p> <p>13    <b>Q</b> So there are two 45-minute lunch breaks      14 in the middle of the night?</p> <p>15    A That's the way we have it for      16 Production. Maintenance is typically right      17 around 11:30 to 12:15.</p> <p>18    <b>Q</b> And your testimony is it was after the      19 lunch break?</p> <p>20    A Yeah, it was after everybody had ate.</p> <p>21    <b>Q</b> Anything that makes you particularly      22 recollect that?</p> <p>23    A I had personally myself just got done</p>	<p>131</p> <p>1     A To honestly tell you if those were on      2 at that point right above that panel, I can't      3 tell you that for sure. I remember what I seen      4 Leon doing.</p> <p>5     <b>Q</b> I believe I asked you who drew this      6 sketch on the reverse of Exhibit 16.</p> <p>7     A Yeah, you did.</p> <p>8     <b>Q</b> And did you tell me?</p> <p>9     A I didn't know who drew it. I don't      10 know.</p> <p>11    <b>Q</b> And did you -- I forgot. I apologize.      12 Is that an accurate sketch of what you saw?</p> <p>13    A Yeah, it's pretty accurate other than      14 the fact, you know, to say these doors were      15 parallel to the way the floor is facing, I      16 couldn't tell you that. But I said I couldn't      17 tell you whether it was actually locked or      18 unlocked. They might have been cracked open.      19 It's not unusual for those Maintenance guys to      20 leave these doors cracked open or laying open a      21 little bit.</p> <p>22    <b>Q</b> Well, the way the sketch is drawn it      23 looks like the doors were positioned to make a</p>

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<p>1 blind, and you said that wasn't the case?</p> <p>2 MR. JOHNSON: Object to the form.</p> <p>3 A What I can recall, I can't tell you</p> <p>4 whether they were open. I'm positive they</p> <p>5 weren't open parallel to the floor plate, but</p> <p>6 they could have been open some.</p> <p>7 Q But not to make a blind?</p> <p>8 MR. JOHNSON: Object to the form.</p> <p>9 A As far as somebody intentionally using</p> <p>10 it for a blind, I don't know.</p> <p>11 Q What's your opinion?</p> <p>12 MR. JOHNSON: Object to the form.</p> <p>13 A My opinion is that to me it really</p> <p>14 doesn't make a difference what you're doing with</p> <p>15 the doors. I mean, if you're in there working</p> <p>16 on the equipment, you're in there working on</p> <p>17 it. But as far as making a blind out of it, it</p> <p>18 really doesn't make a difference, like I said,</p> <p>19 unless you're coming back here from this</p> <p>20 elevator lift station.</p> <p>21 Q Did you ever speak to Mr. Dees at all?</p> <p>22 A When?</p> <p>23 Q During this incident.</p>	<p>1 A No.</p> <p>2 Q It's the second to last paragraph.</p> <p>3 A This one right here; right?</p> <p>4 Q On 37 it says, last sentence, not long</p> <p>5 after this, Jim witnessed Leon walking down the</p> <p>6 stairs. Is that true?</p> <p>7 A I'm trying to remember. I was hurrying</p> <p>8 back downstairs. Probably in the time frame</p> <p>9 which I talked to Kevin when I was talking to</p> <p>10 Kevin, he came down, because down there in</p> <p>11 the -- on the second floor, we have the rework</p> <p>12 station, and I was down there with those guys</p> <p>13 checking through panels and trying to sort out</p> <p>14 the bad ones from the good ones to supply the</p> <p>15 Body Shop because the entryway to the Body Shop</p> <p>16 is right there on the second floor. And from</p> <p>17 what I can recall, we were out there sorting</p> <p>18 panels. And to say he was walking down</p> <p>19 immediately after I seen him, I can't say that,</p> <p>20 but I can recall that he came down at a later</p> <p>21 time frame. But to say that he done it right</p> <p>22 after I seen him, I can't recall that.</p> <p>23 Q Well, let me just read what it says.</p>
<p>1 A Later on that evening. I didn't see</p> <p>2 him much the rest of the evening after I ran</p> <p>3 into him upstairs and went downstairs because --</p> <p>4 trying to get that side outer to run. I believe</p> <p>5 also that night we had some palletizing problems</p> <p>6 on the other press as well. As far as being</p> <p>7 there and being focused around Leon and talking</p> <p>8 to him in particular, no, I didn't. Like I</p> <p>9 said, he's not a direct report to me, so...</p> <p>10 Q And did you see him walking down the</p> <p>11 stairs after you saw him sleeping?</p> <p>12 A I didn't -- I didn't pay attention. I</p> <p>13 seen he was up and he was moving around. I was</p> <p>14 heading back downstairs to make sure the press</p> <p>15 was running.</p> <p>16 Q Well, I notice in your written</p> <p>17 statement there, Exhibit 13, Bates number 37</p> <p>18 says not long after this, Jim witnessed Leon</p> <p>19 walking down the stairs. Is that true?</p> <p>20 A Which one was it?</p> <p>21 Q Second to last paragraph, number 37.</p> <p>22 A (Witness reviews document.)</p> <p>23 Q See where I'm talking about?</p>	<p>1 A It just says not long after this, Jim witnessed</p> <p>2 Leon walking down the stairs. My question is,</p> <p>3 is that a true statement?</p> <p>4 A Yeah, that's a true statement. But,</p> <p>5 like I said, if you are saying immediately, I</p> <p>6 can't say he came down immediately, but he came</p> <p>7 down before I talked to Kevin.</p> <p>8 Q Did you say anything to him?</p> <p>9 A To Leon or Kevin?</p> <p>10 Q Leon.</p> <p>11 A I didn't say anything to Leon. I just</p> <p>12 said he's not a direct report to me, so it's</p> <p>13 not...</p> <p>14 Q Did Kevin say anything to him to your</p> <p>15 knowledge?</p> <p>16 A To my knowledge, no. I don't know.</p> <p>17 Q And was that the last you had to do</p> <p>18 with this sleeping incident other than the</p> <p>19 signing of the two statements that we've seen?</p> <p>20 A Yeah.</p> <p>21 Q Did you attend any disciplinary</p> <p>22 hearings?</p> <p>23 A No.</p>

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1     Q   Did you give any further statements or  
2   interviews?  
3     A   No.  
4     Q   Did anyone, other than after this  
5   lawsuit was filed, ever interview you or talk to  
6   you about what you saw?  
7     A   I had one of the Korean -- Korean  
8   Maintenance manager he asked me, you know, what  
9   I had seen, and I told him what I seen. As far  
10   as him being involved in the disciplinary  
11   process, I don't know if he was or not. But  
12   Mr. Mun came and spoke with me about it.  
13     Q   And was that shortly after Mr. Dees got  
14   terminated or before?  
15     A   I believe it was before.  
16     Q   I think Mr. Dees was terminated on or  
17   about the 26th of February. You think it was  
18   before that?  
19     A   Yeah, I believe so.  
20     Q   Let's maybe relate to that a date you  
21   might remember. What was the date of your  
22   youngest's birth, the one that's seven months  
23   old now you said?

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1     A   He said he wanted to talk to me in the  
2   office, and we went in the conference room and  
3   closed the door and he just asked me about it.  
4     Q   There in the Stamping Plant?  
5     A   Yeah.  
6     Q   So there's some type of office there in  
7   the plant?  
8     A   Yeah. We've got -- in our Stamping  
9   Shop we have two conference rooms. And then in  
10   the Maintenance office there's one conference  
11   room.  
12     Q   Was anybody else there when you and  
13   Mr. Mun were talking?  
14     A   Just me and Mr. Mun.  
15     Q   Did you know why he was asking you  
16   about it?  
17     A   He was just trying to understand what I  
18   seen and what I visualized.  
19     Q   And what did you tell Mr. Mun?  
20     A   I described the same thing to him what  
21   I told you, I went up there to check on side  
22   outer panels. Then I showed him -- I was in  
23   there with him and I showed in the chair the

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1     A   That was in May.  
2     Q   In May. So we can't date that.  
3     What was the occasion when Mr. Mun  
4   talked to you and asked you about this?  
5     A   If the 26th is when he was terminated,  
6   it had to be that week of right before when all  
7   this -- all the stuff was going on. Like I  
8   said, I couldn't honestly tell you when the  
9   exact day was that he was terminated because I  
10   don't know. And I don't know when all the Team  
11   Relations meetings went on with him and stuff  
12   with Greg and John and all that. All I can tell  
13   you is the stuff I was asked and witnessed.  
14     Q   Well, the date of your last statement  
15   is February 19, 2007.  
16     A   Correct.  
17     Q   That's Plaintiff's Exhibit 13. You  
18   talked to Mr. Mun after that?  
19     A   Yeah.  
20     Q   And how did you happen to be talking to  
21   him?  
22     A   He came up and asked me.  
23     Q   All right.

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1     position I see him in.  
2     Q   So you actually took him up to the  
3   site?  
4     A   No. I just showed him from a chair  
5   there in the conference room.  
6     Q   Okay. What did Mr. Mun say?  
7     A   He just kind of looked at me. His  
8   English isn't very well spoken. So he just kind  
9   of looked at me and nodded his head, oh, okay.  
10     Q   That was it?  
11     A   Yeah.  
12     Q   All right. Where is Mr. Greg Prater  
13   now?  
14     A   He had taken a job at some other  
15   company up in Tennessee or Kentucky.  
16     Q   Do you know why he left?  
17     A   From what I understand, he wasn't happy  
18   with what he was doing here. He was wanting to  
19   pursue another career, something promotional, or  
20   get better options. And the other piece was he  
21   was wanting to get closer to home. I think he  
22   as one or two kids up in Tennessee. That's what  
23   it was, Tennessee.

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1       **Q** Had you ever heard any discussions  
 2 between Mr. Prater and Mr. Dees?  
 3       A I only heard one discussion, and that  
 4 was the day after we had an incident with Leon  
 5 where that trolley elevator system I was showing  
 6 you right here -- the lift station -- him and  
 7 another employee were working on that around  
 8 lunchtime, either the day before or two days  
 9 before. And they had just walked off the job  
 10 and went to lunch without telling anybody. And  
 11 we were very close to shutting the Body Shop  
 12 down. Kevin had to hurry up and go find some  
 13 other Maintenance Team Members to get that  
 14 system running before we shut the Maintenance  
 15 shop down. And the next day Kevin had told  
 16 Greg, and Greg had asked me to come in the  
 17 office and was asking me about this incident.  
 18 And he had called me and my senior manager in  
 19 there, Craig. And he was talking to me about  
 20 it. Then it wasn't too long after that he  
 21 called Leon in there and started asking Leon  
 22 about it. Leon was like I didn't walk off the  
 23 F'ing job. He goes, I always do my F'ing job.

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1       be present as he asked Leon those questions  
 2 because I had been there on night shift. I  
 3 didn't actually know when Leon had left, but I  
 4 do know that Kevin had to call other people for  
 5 backup to get the elevator running or we were  
 6 going to shut the Body Shop down.

7       **Q** How long before you reported Mr. Dees  
 8 sleeping did this occur?

9       A This incident here?

10      **Q** I'm talking about where he used all the  
 11 profanity.

12      A I think in the conference room office  
 13 it was the day before. The day before this  
 14 incident happened. Then the issue with the  
 15 trolley happened that night -- that night  
 16 before. All within two days.

17      **Q** Within two days?

18      A Yeah, a couple of days.

19      **Q** Was Mr. Prater and Mr. Dees on speaking  
 20 terms?

21      A I don't know their personal  
 22 relationship. I mean, he -- obviously Greg  
 23 was -- Greg was his boss and what I can see I'm

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1       And then Greg is like did you tell anybody.  
 2 Leon was like there wasn't an F'ing problem. I  
 3 mean, it was -- my boss, he's a preacher, and he  
 4 got up and walked out.

5       **Q** What was it, the last thing Mr. Dees  
 6 said?

7       A He said something about he don't walk  
 8 off the F'ing job. He tried calling -- let's  
 9 see. He said he tried calling Kevin on the  
 10 radio. I forget what he said. He said he tried  
 11 calling -- I forgot how he said it. I tried --  
 12 it had a couple of flavorful words in there, but  
 13 basically he said he tried getting ahold of  
 14 Kevin. But without confirmation of getting  
 15 ahold of Kevin, he still had left with the  
 16 system down.

17      **Q** So this was some incident Mr. Dees had  
 18 left his work area without permission?

19      A I would say so. I mean, he said it was  
 20 his lunchtime and he's entitled to his lunchtime  
 21 and he's going to take his F'ing lunch. And he  
 22 said he tried contacting Kevin and that's --  
 23 that's -- but Greg had asked for me and Craig to

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1       sure there are assignments and stuff that Leon  
 2 didn't always agree with that I think Greg asked  
 3 him to do. But it wasn't nothing out of the  
 4 ordinary.

5       **Q** Greg Prater was called a Team Leader.  
 6       A He was assistant manager.

7       **Q** Assistant manager. Okay. Was there  
 8 any kind of disciplinary action about that?

9       A I couldn't tell you. I don't know.  
 10 Like I said, Greg dealt with that on his own  
 11 because Craig and I was always if you got some  
 12 issue, you need to take it behind closed doors  
 13 and deal with it. It don't need to involve all  
 14 of us. That's between Greg and John Applegate  
 15 and Leon. Like I said, Leon is not a direct  
 16 report to me or Craig.

17      **Q** Did you ever hear any discussion at  
 18 that plant about Mr. Dees' National Guard duty?

19      A No. I knew he was in it because him  
 20 and I had talked personally and I knew he was  
 21 still in the Reserves, still had duty.

22      **Q** Since he was not basically -- you were  
 23 not his direct report how did y'all get in that

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1 conversation?  
 2 A Just being around him on the floor. I  
 3 mean, he's out there with the rest of the guys  
 4 on the floor. I mean, I always try to make sure  
 5 I have a working relationship with people, and,  
 6 you know, even though I didn't have direct  
 7 reports of Maintenance, I'd still try to help  
 8 them get parts and help them get stuff. Because  
 9 the bottom line, their performance affects our  
 10 productivity.

11 Q What did Mr. Dees tell you about his  
 12 National Guard?

13 A He just told me he was in -- my  
 14 understanding he was in the Reserves and we  
 15 talked a little bit about his military  
 16 background, some time he spent in Korea. And he  
 17 said he still actively does some stuff for the  
 18 military and he has some weekend duties  
 19 sometimes. I didn't know when he went, but I  
 20 knew he was still involved with it.

21 Q All right. Any other discussion  
 22 between you and Mr. Dees?

23 A I mean, just personable stuff, talking

1 Q No discussion about Mr. Dees?  
 2 A No.  
 3 Q No discussion about you?  
 4 A (Witness shakes head.)  
 5 Q No?  
 6 A No.  
 7 Q Did he know you were in the substance  
 8 abuse program at Hyundai?  
 9 A Greg Prater?  
 10 Q Right.  
 11 A No.  
 12 Q I want to show you a collection of  
 13 documents we've previously marked as Plaintiff's  
 14 Exhibit 9. And there's a Bates number 39. I  
 15 want you to refer to this if you would. That's  
 16 an e-mail transmission dated -- from Greg Prater  
 17 dated February 8, 2007, and it refers to an  
 18 original message from William Ware to  
 19 Mr. Clevenger, copies to Greg Prater. It says,  
 20 Rob, Greg P. and I met with all the TMs in  
 21 question about Leon leaving to go to lunch while  
 22 the lift was down. We came to the consensus  
 23 that a Discussion Planner is needed for the TMs

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1 about military or talking about press problems  
 2 or stuff like that.

3 Q Tell me, other than the two lawyers  
 4 here today and Mr. Hughes who you've told me  
 5 about, that you've discussed this sleeping  
 6 incident with.

7 A Mr. Hughes. And I'm sorry. I  
 8 discussed it with my senior manager, Craig  
 9 Stapely.

10 Q Craig Stapely?

11 A And discussed it with Mr. Mun and  
 12 discussed it with Greg Prater and John  
 13 Applegate.

14 Q When is the last time you talked to  
 15 Greg Prater?

16 A It's been when he left. Whenever he  
 17 left. The last day that he was leaving.

18 Q So you talked to him the last day he  
 19 was leaving?

20 A The last day he left. You know, the  
 21 day before and the last day, just kind of  
 22 shaking his hand and wishing him good look on  
 23 his new assignment.

1 who left to go to lunch while the lift was down;  
 2 Shane, Drake, and Leon. The TMs performing the  
 3 repair should have waited until help arrived to  
 4 take over the repair. The TL and Leon are not  
 5 on speaking terms and it appears that he blew  
 6 the incident out of proportion and he only  
 7 singled Leon out but for no apparent reason.  
 8 Proper communication and task transfer will be  
 9 the topic of the Discussion Planner. If  
 10 necessary, I can type up all the notes in the  
 11 report, but I didn't think it was necessary if  
 12 Greg and I both agree on the resolution. Let me  
 13 know if I need to. Is that the incident you're  
 14 talking about?

15 A Yeah.

16 Q Now, I don't see any --

17 A I remember Shane being with Leon, too,  
 18 but I don't remember Drake. But I remember Leon  
 19 and Shane.

20 Q You testified earlier that Mr. Dees had  
 21 used quite a bit of profanity. You kept using  
 22 the words F'ing. Meaning F-U-C-K-I-N-G; right?

23 A Yeah.

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<p>1 Q You said that was throughout that 2 conversation.</p> <p>3 A There was damn and hell.</p> <p>4 Q Damn and hell. What other profanity?</p> <p>5 A And shit.</p> <p>6 Q Shit.</p> <p>7 A That's it.</p> <p>8 Q What other profanity?</p> <p>9 A That's the four I can remember.</p> <p>10 Q And, of course, neither you nor 11 Mr. Prater and anybody else in that discussion 12 used any profanity; would that be true?</p> <p>13 MR. JOHNSON: Object to the form.</p> <p>14 A No, I didn't. Greg didn't use it, and 15 Craig definitely didn't use it, and I didn't use 16 it either.</p> <p>17 Q Right. So Mr. Dees was out of line in 18 your opinion?</p> <p>19 A It was pretty verbally -- I mean, 20 normally if a Production Team Member talks like 21 that to another Team Member or member of 22 management, I'll take corrective action on it. 23 What Greg done with it, I don't know. But if a</p>	<p>1 him, kind of like a -- kind of like a team -- 2 like he tried to lead the guys in kind of a 3 negative -- negative way.</p> <p>4 Q Mr. Dees did?</p> <p>5 A Yeah.</p> <p>6 Q So Kevin Hughes is the first person you 7 reported the sleeping to; right?</p> <p>8 A Right.</p> <p>9 Q Kevin Hughes is your --</p> <p>10 A He's Maintenance's Team Leader.</p> <p>11 Q Your leader?</p> <p>12 A Greg Prater.</p> <p>13 Q Greg Prater is your leader?</p> <p>14 A No. John Applegate is senior manager 15 of Maintenance. Greg Prater reported to John 16 Applegate. Kevin Hughes reports to Greg Prater 17 and Leon reports to Kevin.</p> <p>18 Q And Kevin is the one that you first 19 reported the sleeping to?</p> <p>20 A Correct. Because that's the only 21 leadership figure that Maintenance has on night 22 shift is Kevin.</p> <p>23 Q And Kevin Hughes is the same person</p>
<p>149</p> <p>1 Team Member does that that works for me or any 2 member of management that works for me and talks 3 to another person like that I get them -- I 4 mean, depending on what phase they are in the 5 disciplinary process, I'll at least give them a 6 Discussion Planner for it. We call them 7 Discussion Planners. My boss that's a preacher, 8 he's definitely against -- he's a big one 9 against --</p> <p>10 Q Your boss would be who?</p> <p>11 A Craig Stapely.</p> <p>12 Q Stapely. And this says the TL and Leon 13 are not on speaking terms. Who would that be?</p> <p>14 A That's Kevin Hughes.</p> <p>15 Q And that's the man you reported the 16 sleeping incident to first?</p> <p>17 A Correct.</p> <p>18 Q And why weren't Mr. Hughes and Mr. Dees 19 on speaking terms?</p> <p>20 A I couldn't -- I mean, I don't know 21 their past history or what. I do know that 22 Kevin has came to me a couple of times and, you 23 know, said that Leon is very standoff-ish to</p>	<p>151</p> <p>1 mentioned in this e-mail I just showed you?</p> <p>2 A Yeah. That's correct.</p> <p>3 Q And he would be the TL who wasn't on 4 speaking terms with Mr. Dees?</p> <p>5 A (Witness nods head.)</p> <p>6 Q Correct?</p> <p>7 A As far as what their speaking terms 8 are, I don't know, but...</p> <p>9 Q Well, that's what this says?</p> <p>10 A Right. He is Leon's Team Leader.</p> <p>11 Q This looks like Mr. William Ware sent 12 this. He's the same person that took this 13 statement from you?</p> <p>14 A Correct.</p> <p>15 Q So Mr. Ware would have known when he 16 took that statement from you that Mr. Kevin 17 Hughes and Mr. Dees were not on speaking terms 18 according to this?</p> <p>19 A He would be the guy, yeah.</p> <p>20 Q And it says Mr. Dees was singled out 21 for no apparent reason. Do you know where that 22 came from?</p> <p>23 A (Witness shakes head.)</p>

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<p>1       <b>Q</b> You don't?</p> <p>2       A I mean, I don't know why -- I don't 3      know why he would be considered being the one 4      singled out. I can tell you I remember Leon had 5      been working on it and Shane. I don't recall 6      Mr. Drake working on it, but I remember Shane 7      and Leon working on that drop.</p> <p>8       <b>Q</b> Well, Shane and Mr. Drake -- what's 9      <b>Mr. Drake's first name?</b></p> <p>10      A That is his first name. It's Drake 11     Barefoot.</p> <p>12      <b>Q</b> <b>Shane and Drake Barefoot were not in</b> 13     <b>this discussion about this incident that you</b> 14     <b>participated in?</b></p> <p>15      A With Craig? Me and Craig and Greg?</p> <p>16      <b>Q</b> Right.</p> <p>17      A He just called -- I don't know if he 18     had already talked to Shane or Drake or who he 19     talked to in what order. I know that I was 20     there when he had talked to Leon.</p> <p>21      <b>Q</b> Well, this apparently says that Leon 22     was singled out as opposed to Shane or Drake, 23     doesn't it?</p>	<p>1      already answered.</p> <p>2       A It was talking about that incident that 3      happened with the trolley lift station and 4      addressing him walking off the job and not 5      telling anybody.</p> <p>6       <b>Q</b> So he was cussing in the meeting and 7      then cussing leaving the meeting?</p> <p>8       A He said I'm not going to deal with this 9      shit and he opened the door and...</p> <p>10      <b>Q</b> Well, do you know why you were in the 11     meeting at all?</p> <p>12      A Because I witnessed downtime. I didn't 13     witness him walk off the job, but I witnessed 14     downtime and that he was the one that was 15     working on it. But I don't know when he left, 16     but I did witness him and Shane working on it 17     and I did know that we almost shut the Body Shop 18     down because the elevator was down. There was 19     no communication made that he had gone to lunch 20     from my understanding.</p> <p>21      <b>Q</b> Did you ever hear anybody at Hyundai, 22     other than the discussion you and Leon had, talk 23     about Mr. Dees' Guard obligation?</p>
<p>153</p> <p>1      A Going by what was put in this right 2      here, that's what it appears to be. But as far 3      as me knowing anything about him being singled 4      out, I don't know. I just know that I was in 5      there for when Greg had called Leon into the 6      office.</p> <p>7       <b>Q</b> Did Greg call Drake or Shane into the 8      office?</p> <p>9       A Not while we were there. After Leon 10     had came in there and had spewed out a few cuss 11     words, my boss got up and left. He just looked 12     at Greg and was like I'm not going to tolerate 13     this. He goes I'm leaving.</p> <p>14      <b>Q</b> So you were there just as a witness?</p> <p>15      A Craig had witnessed this talking and 16     Leon had walked out. Leon didn't -- he didn't 17     stay there. Had he finished uttering out a few 18     words and phrases and then he walked out.</p> <p>19      <b>Q</b> What words and phrases?</p> <p>20      A Well, that I was telling you, the hell, 21     the damn, and shit and...</p> <p>22      <b>Q</b> Tell me what you remember he said.</p> <p>23      MR. JOHNSON: Object to the form. He's</p>	<p>155</p> <p>1      A And that probably -- I mean, we talked 2      about him being in the Guard a couple of times, 3      but I don't know specifically when his weekends 4      were or when his periods were that he had to go 5      serve. But I knew he was actively involved in 6      it and there was times he had to do weekend duty 7      or whatever it was.</p> <p>8       <b>Q</b> Do you know what Hyundai's policy is 9      regarding weekend duty?</p> <p>10      A No, I don't. Because back when we had 11     talked about that, there was a memorandum, I 12     think, that was sent out by Team Relations 13     talking about that particular issue and there 14     was nobody in our area at the time that was 15     actively involved in duty. So I didn't really 16     get involved in the policy or the action or the 17     course that's taken for that.</p> <p>18      <b>Q</b> You said there was a memorandum put out 19     by HR talking about Guard duty?</p> <p>20      A Yeah, there was because there was like 21     some other people across the plant. I don't 22     know if it was Team Relations or HR or who it 23     was, but there was a notice or something put out</p>

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1 that kind of said, hey, here's what we're going  
 2 to do. I can't recall exactly what it said.  
 3 But there were some people across the plant that  
 4 was also involved in the Forces.

5     **Q** Involved in what?

6     A Forces. Armed Forces.

7     **Q** And did this come out after the  
 8 sleeping incident that you say you saw?

9     A I can't recall. It was sometime this  
 10 year. I would guess it probably was. I don't  
 11 know.

12    **Q** And who was it from?

13    A It was either Team Relations or HR.

14    **Q** And you got a copy?

15    A No, I don't have one.

16    **Q** What did -- did you get a copy and just  
 17 throw it away?

18    A Well, we had gotten e-mails sent to  
 19 us -- I'm pretty sure it was in e-mail format  
 20 Team Relations, I think. What they had done is  
 21 we had to go around and check and see who's all  
 22 actively involved or participating in the Forces  
 23 or was part of the Forces. And then we didn't

1     **Q** And since you didn't have any Armed  
 2 Forces under your immediate supervision --

3     A I didn't get in touch with the policy  
 4 or get deeply involved. If we had somebody and  
 5 they came up to me and said they're serving in  
 6 the Guard or something like that, then I would  
 7 go to HR and Team Relations and find out what  
 8 it --

9     **Q** Did it specifically mention Guard duty?

10    A It said -- I believe it said something  
 11 about serving, serving the Armed Forces or  
 12 serving duty or something like that. I can't  
 13 recall if it said National Guard or whatever.

14    **Q** And what did it say about -- what was  
 15 the company policy that was in this e-mail?

16    A I can't recall that.

17    **Q** Was it setting forth the protocol to  
 18 follow if somebody on Guard duty --

19    A Yeah, it was basically like -- just  
 20 like -- like I said, it was either guidelines or  
 21 policy or something. Just laying it out there  
 22 so there's no misunderstanding that this is what  
 23 needs to happen or...

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1 have nobody in our area participating in it, so  
 2 I didn't really find a need for myself to really  
 3 investigate what we needed to do because we  
 4 didn't have anybody involved in duty.

5     **Q** You have a company e-mail address?

6     A Yeah.

7     **Q** What is it?

8     A Jamesbrookshire@hmmausa.com.

9     **Q** You would have gotten this through that  
 10 e-mail?

11    A Yeah.

12    **Q** And your best judgment is it was after  
 13 this sleeping incident?

14    A I think. I think.

15    **Q** And it said what? Some kind of notice?

16    MR. JOHNSON: Object to the form.

17    **Q** A notice about what?

18    A Just how the company policies apply or  
 19 the protocol that we follow for people serving  
 20 duty or serving in the Armed Forces.

21    **Q** And it was sent to you because you're  
 22 in a supervisory capacity?

23    A Right.

1     **Q** Did it refer to the fact that there was  
 2 a misunderstanding?

3     A No. I think there was questions --  
 4 questions brought about. Because, like I said,  
 5 they have people in General Assembly, people in  
 6 Paint Shop, I think, also that had Guard duty or  
 7 served in the Forces. Actually our last Team  
 8 Member letter that's published, we've got  
 9 somebody in Iraq right now, and they were  
 10 talking about how they missed working at the  
 11 plant and ready to come back and put their  
 12 uniform on and work back at the plant again.

13    **Q** Who at HR would have sent out this  
 14 e-mail?

15    A I don't know. Like I said, it was  
 16 probably either -- usually notices or  
 17 information like that is either HR or Team  
 18 Relations, one of those two.

19    **Q** Who would be the people? Would it be  
 20 Wendy Warner maybe?

21    A Wendy or Rob.

22    **Q** Rob Clevenger?

23    A Rob Clevenger or Wendy Warner.

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1       Q   So you think it was one of those two?  
 2       A   Yeah. It would have to be one of those  
 3   two or their assistants, or sent out on their  
 4   behalf.

5       Q   And was it a mass e-mail to everybody?  
 6       A   Typically for information purposes,  
 7   they usually send it to -- they've usually got  
 8   -- the acronym they use is HMMA all and it goes  
 9   out to everybody on the e-mail system.

10      Q   Did it ever refer to whether or not  
 11   military orders would be required for Reserve  
 12   duty?

13      A   I can't recall that.

14       MR. KILBORN: I want to take a break.  
 15

16       (Whereupon, a brief recess was had in  
 17   the proceeding.)  
 18

19   BY MR. KILBORN:

20      Q   Okay. Was your wife at this party  
 21   where you were snorting that cocaine?

22      A   She wasn't. She was only there for a  
 23   couple of hours.

1   their computers, but I don't know if it's like  
 2   for interconference calls or whatever at their  
 3   desk.

4       Q   So HMC headquarters in Seoul; right?

5       A   Yeah.

6       Q   They were monitoring the --

7       A   Press repair.

8       Q   -- press repair from Seoul?

9       A   I think so. They've got some

10      organization they've got called Global Command  
 11   Center or something like that where they monitor  
 12   all the KPIs, key performance indexes, for all  
 13   the plants and any major catastrophic problems  
 14   or anything. Our press was down for about a  
 15   month, and that's big downtime, big concern.

16      Q   Did you get any orientation when you  
 17   began work at Hyundai or had some since then  
 18   about the company organization relationship  
 19   between Hyundai Motor Corporation, AMC, HMMA, or  
 20   HMA?

21      A   Any meetings?

22      Q   Yeah. Any orientation where the  
 23   relationship was discussed.

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1       Q   But she was there?

2       A   Yeah, she was there in the earlier part  
 3   of the...

4       Q   When did she learn that you snorted  
 5   cocaine and ended up being found out at the  
 6   Hyundai plant?

7       A   I told her when -- that day when I  
 8   tested positive and when I went through all  
 9   that.

10      Q   She didn't know before then?

11      A   No. She knew I had -- in my younger  
 12   years I had done it a couple of times.

13      Q   Are there any cameras in that Stamping  
 14   Plant?

15      A   There's some, I believe, externally on  
 16   the outsides of the building to kind of view  
 17   what's going on outside in some of the parking  
 18   lots. They had had some set up inside the plant  
 19   just recently when we broke the press, and HMC  
 20   was monitoring the press repair from  
 21   headquarters. But that was -- as far as any  
 22   other ones internally, I don't know of any. I  
 23   know some of the Koreans have the web cams on

1   A   They had put us through what they --  
 2   well, not all of us. But what they've been  
 3   trying to do is put everybody through what they  
 4   call cultural training, HMC culture training.  
 5   And they'll take, Team Members, management  
 6   members, and all that. They had sent me last  
 7   year right before my wife -- about two weeks  
 8   before she was due to have the baby -- sent me  
 9   to Korea for a week. But they picked Team  
 10   Members, management members and sent them  
 11   together as a group over to Korea. And they've  
 12   been doing that off and on for a couple of  
 13   years, just to kind of learn their culture and  
 14   learn their ways and stuff.

15      Q   They took you out of your drug abuse  
 16   program?

17      A   No, no. This was last year.

18      Q   2006?

19      A   2006, yes, sir.

20      Q   Did they tell you that this is just one  
 21   big company really --

22      MR. JOHNSON: Object to the form.

23      Q   -- run by Seoul HMC?

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1 A Their philosophy is it's a company  
 2 working together in harmony to build the  
 3 quality -- highest quality automobiles for  
 4 people in the world.

5 Q Right. Well, what I'm hearing is that  
 6 HMC controls everything; is that true?

7 MR. JOHNSON: Object to the form.

8 A No, they don't control everything, but  
 9 I mean, it's -- my opinion, if I was starting --  
 10 just like Toyota or Honda when they first  
 11 started their first plant in a new country,  
 12 they're going to have active involvement on how  
 13 the company is structured, how it's ran to make  
 14 sure the business is going to prosper, because  
 15 they had a company they tried running in Canada  
 16 and had some problems there and it ended up not  
 17 making it. So I think they know that they need  
 18 to take an active foothold in making sure the  
 19 company is going to be prosperous and move in  
 20 the right direction or otherwise they're going  
 21 to lose a lot of money.

22 Q And who is they?

23 A HMC and HMA. It's in their best

1 they're working through. I wouldn't say HMC is  
 2 controlling everybody and telling them what to  
 3 do.

4 Q How about HMA?

5 A They don't have much of an influence on  
 6 us. I mean, that's our sales group. That's our  
 7 sales group, and they kind of -- really the only  
 8 involvement they have with us as far as giving  
 9 us an understanding of our production schedule  
 10 and our orders and how much overtime we need to  
 11 work to fulfill those orders.

12 Q HMA does that?

13 A Yeah, they give you a sales forecast.

14 Q So you run production to meet the sales  
 15 forecast HMA puts out?

16 A Yeah.

17 Q Is that in written form?

18 A I'm not involved with that. That's  
 19 something that's done with Production Control.  
 20 Production Control figures out what all the  
 21 other departments need to do and the suppliers  
 22 and they kind of disseminate the information and  
 23 give it to us.

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1 interest to make sure the company is moving in  
 2 the right direction. They've already -- just  
 3 our plant alone they've already reduced the  
 4 Korean head count activity in our Stamping  
 5 Department because we used to have like 15  
 6 Koreans in our department. Now we only have  
 7 probably six.

8 Q You started in 2005?

9 A Yes, sir, August.

10 Q So the HMC and HMA desired and actually  
 11 had active control to make sure that the  
 12 operations got up and running correctly?

13 A (Witness nods head.) And still it's  
 14 still a young plant. We're still working bugs  
 15 out now, but it's progressed a lot from what it  
 16 was a couple of years ago.

17 Q Was that a yes to my last question?  
 18 You nodded your head.

19 A Yes. Sorry.

20 Q And is that active control by HMC and  
 21 HMA still present?

22 MR. JOHNSON: Object to the form.

23 A There's a joint partnership that

1 Q Is HMA -- do they have people on the  
 2 scene at the Hyundai plant?

3 A We used to have a guy, Mr. Duckworth,  
 4 but he went back to HMA out in California. He  
 5 was our major presence for HMA. My  
 6 understanding is we have people that come in off  
 7 and on into our plant, but as far as having  
 8 direct people from HMA at our plant, I don't  
 9 know of any and where they're at.

10 Q Outside of the sleeping incident, do  
 11 you know of any employment problems that's  
 12 Mr. Dees had at Hyundai?

13 A The only other issue I know about  
 14 besides the issue with the elevator system that  
 15 was in the e-mail, the sleeping problem, Greg  
 16 had mentioned to me a couple of times he had  
 17 some issues with Leon kind of being defiant on  
 18 doing some work. And that's about it.

19 Q Tell me what you remember there.

20 A Just him thinking that he doesn't need  
 21 to go clean up messes or clean up after  
 22 himself. We've got areas that we agreed to --  
 23 between Production and Maintenance we agreed to

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1 clean up in the plant. And we -- Production is  
 2 responsible for the baler area. We clean up the  
 3 baler area and Maintenance is responsible for  
 4 cleaning up the press pits. And a lot of those  
 5 Maintenance guys -- I know Greg had mentioned  
 6 Leon, he didn't like to go down there and do his  
 7 share of cleaning up the press pit. He had  
 8 problems with that before.

9     **Q** And the press pit is on the basement  
 10 level underneath the two giant presses?

11     A Yes, sir.

12     **Q** And that's where the shards and pieces  
 13 left over from the Stamping process come down  
 14 the shoot, hit the conveyor belt, and go off to  
 15 the baling area?

16     A They have what they call the scrap  
 17 metal slugs -- they call them slugs, punch  
 18 pieces. Oil drips out of the press from leaks  
 19 and stuff like that.

20     **Q** And have you been down in the pit when  
 21 it's operating?

22     A Yeah, I've been down there.

23     **Q** Describe that for me.

1 just besides the little round slugs, aren't  
 2 there?

3     A Basically what makes it out to the  
 4 floor is slugs. That's basically what --  
 5 because they're small and they fall out from the  
 6 sides of the conveyor. Most of the scrap metal  
 7 comes down the shoots which are enclosed shoots  
 8 and hit the conveyor.

9     **Q** And Mr. Dees didn't like to be in the  
 10 pit?

11     MR. JOHNSON: Object to the form.

12     A Me asking him personally or knowing him  
 13 personally, I can't vouch for that, but I know  
 14 Greg had told me he had some issues with Leon  
 15 going down there and doing his job in the pit.  
 16 They had like a rotation set up where guys took  
 17 turns going down to the pit and cleaning the  
 18 pit. I know from what I understand he had some  
 19 problems with Leon going down there and doing  
 20 his.

21     **Q** Mr. Dees didn't like the pit, did he?

22     MR. JOHNSON: Object to the form.

23     A I don't know.

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1     A Just, you mean, like the environment or  
 2 the sound or everything there?

3     **Q** Everything.

4     A The press pit you definitely have to  
 5 wear hearing protection. There's oil spots in  
 6 certain places like where it's dripping down  
 7 from either the blank washer, the press  
 8 hydraulic units, or what have you. And then the  
 9 scrap comes down the shoots and it's pretty  
 10 noisy coming down the shoots and hits the  
 11 conveyor and rolls out on the conveyor.  
 12 Sometimes those little slugs bounce out of the  
 13 sides of the conveyor. But you can't -- if you  
 14 get anywhere near the conveyor, they've got what  
 15 they call an E stop switch that you pull if  
 16 anything emergency happens and it shuts  
 17 everything off, shuts the press off, conveyor  
 18 off and everything there.

19     **Q** There's a lot more than slugs that  
 20 comes out of there, isn't there? Isn't there  
 21 giant metal shards?

22     MR. JOHNSON: Object to the form.

23     **Q** And all kinds of sharp pieces of metal

1     **Q** Did anybody like the pit?

2     A I don't what they -- I've been down  
 3 there cleaning scrap up and oil up myself just  
 4 to show people I'll get in there and work with  
 5 them just to say, hey, it's not that bad of a  
 6 job.

7     **Q** How many decibels is the noise in the  
 8 pit when the two presses are running?

9     A I couldn't vouch for that, but I know  
 10 at the back of the presses it's 90, 95. 90 to  
 11 95 decibels.

12     **Q** What is the level at which permanent  
 13 hearing loss is a danger?

14     MR. JOHNSON: Object to the form.

15     A Over 85 decibels over an extended  
 16 eight-hour period you experience hearing loss.

17     **Q** And this is about 90?

18     A If you stand right there at the back of  
 19 the press consistently. That's right back there  
 20 where the opening is at the back of the press.  
 21 Currently right now we're purchasing sound  
 22 deadening material because we're trying to make  
 23 an effort -- concerted effort with Safety to

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## JAMES ALLEN BROOKSHIRE

1 reduce the decibels so people don't have to wear  
 2 hearing protection in the area anymore.  
 3 Q And are Kevlar sleeves mandatory in the  
 4 pit?  
 5 A Yes.  
 6 Q Is hard hat mandatory in the pit?  
 7 A Yes.  
 8 Q Safety goggles mandatory in the pit?  
 9 A Yes.  
 10 Q Steel-toe shoes mandatory in the pit?  
 11 A Yes.  
 12 Q Any other safety gear mandatory?  
 13 A If you're going to be picking up like  
 14 the metal scrap you were talking about, you've  
 15 got to wear gloves.  
 16 Q Kevlar gloves?  
 17 A Yes.  
 18 Q Was one of Leon's jobs in the pit  
 19 picking up the metal shards?  
 20 A Yeah.  
 21 Q Anybody ever get cut doing that?  
 22 A Usually if you're wearing your PPE most  
 23 of the time you won't get cut unless you're

1 Q What you were doing it was dangerous  
 2 because it went right through your Kevlar glove;  
 3 isn't that true?  
 4 MR. JOHNSON: Object to the form.  
 5 A There's ways you can handle the metal  
 6 that will reduce the danger of the job. And  
 7 that's -- that was just -- me personally I was  
 8 in a hurry trying to get the press running. I  
 9 was yanking it out. You can take the shards or  
 10 scrap pieces and you can bend them into pieces  
 11 and get poles and yank them out with poles and  
 12 stuff.  
 13 Q Well, see if you can answer this  
 14 question. Isn't it true that the pit is a  
 15 dangerous, noisy, oily place to work?  
 16 MR. JOHNSON: Object to the form.  
 17 A It's -- I mean, it's got noise because  
 18 of the presses running. It's going to be noisy  
 19 anywhere there are presses. 5400 tons, that  
 20 kind of pressure is going to generate noise. As  
 21 far as the oil, just like a car that ages, with  
 22 time you're going to have some oil leaks. It's  
 23 Maintenance's responsibility to fix those leaks

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1 really tugging on a sharp piece of metal and  
 2 they'll kind of cut through the glove. But as  
 3 far as I know, I haven't heard anybody that's  
 4 been wearing their PPE got hurt like that.  
 5 Q And you got cut because of why?  
 6 A I was doing exactly what I just told  
 7 you. I was -- we had a piece of scrap stuck  
 8 down in the scrap shoot from above. When the  
 9 die cuts off the trim edge, it goes into the  
 10 scrap shoot which goes to the pit. Sometimes  
 11 those will get backed up or a panel will fall  
 12 off inside the scrap shoot and then the scrap  
 13 will back up. Then we have to pull all that  
 14 scrap out by hand. And there was a piece stuck  
 15 in there and I yanked on it and it just -- it  
 16 will go right through the glove.

17 Q And it went right through your glove?  
 18 A Yeah.  
 19 Q That's a Kevlar glove?  
 20 A Yeah.  
 21 Q So it's dangerous, isn't it?  
 22 MR. JOHNSON: Object to the form.  
 23 A Depends on what you're doing.

1 as they come about.  
 2 Q So it's not oily?  
 3 A I wouldn't call it excessive oily.  
 4 Q But it's oily?  
 5 A Yeah, there's oil down there.  
 6 Q Oil is slippery, isn't it?  
 7 A Yes.  
 8 Q Even in steel-toe shoes it's slippery?

9 MR. JOHNSON: Object to the form.  
 10 A It can be if you've got puddles of it  
 11 everywhere, yeah. Of course it can be  
 12 slippery. I mean, that's also part of us buying  
 13 our industrial boots.

14 Q Did you ever see anybody taking  
 15 photographs of the control panel area where you  
 16 claim Mr. Dees was sleeping?  
 17 A Have I seen anybody taking pictures?  
 18 Q Right.  
 19 A Huh-uh.  
 20 Q Have you ever seen any photographs of  
 21 that area?  
 22 A No.  
 23 Q Is that area the same today as it was

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## JAMES ALLEN BROOKSHIRE

1 when you say you saw Mr. Dees sleeping?  
 2 A I'm trying to think. The only  
 3 different thing that's up there right now from  
 4 that picture, there's an orange ladder that's  
 5 laying up there, been laying up there. I mean,  
 6 there's no chair up there. And somebody drew  
 7 that wire spool. I don't remember that wire  
 8 spool. There's nothing out in front of that  
 9 cabinet right now.

10 MR. KILBORN: Thank you,  
 11 Mr. Brookshire. That's all I have.

## EXAMINATION

BY MR. JOHNSON:

14 Q Mr. Brookshire, I've got a couple of  
 15 follow-up questions. Some I just want to make  
 16 sure I'm clear on a couple of things.

17 The incident where you injured your  
 18 hand was that actually done in the pit or was  
 19 that up on the Production level at the  
 20 Stamping --

21 A It was on the Production level.

22 Q So that wasn't actually in the pit?

23 A No, sir.

1 serious misconduct?

2 A Yes, sir.

3 Q Okay. And Mr. Kilborn asked you to  
 4 circle some bullet points, and one of the ones  
 5 that you circled was -- I guess it's the fifth  
 6 bullet point -- use, possession, sale, transfer  
 7 of, or being under the influence of illegal  
 8 drugs, alcohol, or any other intoxicating  
 9 substance at any time on HMMA property; correct?

10 A Yeah.

11 Q Now, just to go back and clarify. Did  
 12 you ever use illegal drugs, alcohol, or any  
 13 other intoxicating substance on HMMA property?

14 A No, sir.

15 Q Did you ever possess any illegal drugs,  
 16 alcohol, or intoxicating substances on HMMA  
 17 property?

18 A No, sir.

19 Q Did you ever sell any illegal drugs,  
 20 alcohol, or other intoxicating substances on  
 21 HMMA property?

22 A No, sir.

23 Q Okay. Did you ever transfer or give or

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1 Q Mr. Brookshire, you reviewed  
 2 Plaintiff's Exhibit Number 15 with Mr. Kilborn;  
 3 correct?

4 A Yes, sir.

5 Q And just to make sure, when Mr. Kilborn  
 6 asked you to review the list, I think you looked  
 7 at some of the bullet points there; correct?

8 A Yes, sir.

9 Q And did you also review or read into  
 10 the Record what follows those bullet points?

11 A The bullet points that I circled, I  
 12 read most of the bullet point. I mean, I didn't  
 13 finish that one or that one towards the end.

14 Q Did you read the final sentence there  
 15 that says the aforementioned list is not all  
 16 inclusive?

17 A No, I didn't. I didn't see that.

18 Q You did not see that?

19 A No.

20 Q You understand what that means?

21 A Right. There could be other issues  
 22 that aren't included on this list.

23 Q Other things that may constitute

1 receive any illegal drugs, alcohol, or other  
 2 intoxicating substances at any time on HMMA  
 3 property?

4 A No, sir.

5 Q Were you ever under the influence of  
 6 illegal drugs, alcohol, or other intoxicating  
 7 substances at any time on HMMA property?

8 A I wasn't under the influence, but I  
 9 know that I tested positive.

10 Q And what do you mean by you know you  
 11 weren't under the influence?

12 A As in the immediate debilitating  
 13 effects of drugs or alcohol.

14 Q You often hear the term impairment.  
 15 Were you impaired at any time because of illegal  
 16 drugs, alcohol, or other intoxicating substances  
 17 on HMMA property?

18 A No.

19 MR. KILBORN: I'm going to object to  
 20 that as to him being an expert on what's  
 21 impaired.

22 Q Okay. Have you ever used any illegal  
 23 drugs, alcohol, or any other intoxicating

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## JAMES ALLEN BROOKSHIRE

1 substances immediately prior to coming to work?  
 2 A No, sir.  
 3 Q Had you ever felt drunk at work?  
 4 A No. Tired, not drunk.  
 5 Q Mr. Kilborn had asked you about a wire  
 6 spool that was on a drawing that somebody had  
 7 made. Is it your testimony that you recall that  
 8 there was no wire spool there at the time you  
 9 saw Mr. Dees sleeping, or is it that you don't  
 10 remember whether it was there or not?  
 11 MR. KILBORN: I object to counsel  
 12 leading his own witness.  
 13 A I don't remember it being there.  
 14 Q Okay. You had mentioned to Mr. Kilborn  
 15 this Mr. Mun had come and spoken to you at some  
 16 point. Do you recall whether he received a  
 17 telephone call from Mr. Dees' wife?  
 18 A Yes, he did.  
 19 Q Do you remember what he said about the  
 20 call from Dees' wife?  
 21 A I think something to the effect that  
 22 his wife didn't feel that it was right for what  
 23 happened and he should not be getting any kind

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1 didn't you?  
 2 A I didn't have anything -- I didn't  
 3 possess anything.  
 4 Q You knew about that, didn't you?  
 5 MR. JOHNSON: Object to the form.  
 6 A (No response.)  
 7 Q You didn't know that was possible?  
 8 A I don't have this whole book memorized.  
 9 Q Let's see if you've got the rest of it  
 10 memorized. HMMA also considers off-the-job  
 11 illegal drug use as proper cause for  
 12 disciplinary action up to and including  
 13 termination of employment. You read that?  
 14 A Yeah.  
 15 Q And you are guilty of off-the-job  
 16 illegal drug use, aren't you?  
 17 MR. JOHNSON: Object to the form.  
 18 A I showed up positive in a urine screen.  
 19 Q That's not my question. You are guilty  
 20 of off-the-job illegal drug use, aren't you?  
 21 A Going by a urine specimen, yes, I am.  
 22 Q Well, going by what you know you did,  
 23 which is snort cocaine --

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1 of discipline for doing that on the job, that he  
 2 didn't do anything wrong.  
 3 MR. JOHNSON: I think I'm about done if  
 4 we could take a quick break so I could talk to  
 5 Chris.  
 6  
 7 (Whereupon, a brief recess was had in  
 8 the proceeding.)  
 9  
 10 MR. JOHNSON: I'm done.  
 11 FURTHER EXAMINATION  
 12 BY MR. KILBORN:  
 13 Q Mr. Brookshire, would you look at  
 14 Plaintiff's Exhibit 15, the handbook? And if  
 15 you'll look on page 38 and 39, it's got specific  
 16 handbook rules on drug and alcohol, doesn't it?  
 17 A Yeah. I haven't -- like I said, I  
 18 haven't reviewed everything, but...  
 19 Q Well, let me help you. Look at the top  
 20 of page 39. The third line down says any  
 21 illegal substance will be turned over to the  
 22 appropriate law enforcement agency and criminal  
 23 prosecution may result. You knew about that,

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1 MR. JOHNSON: Object to the form.  
 2 Q -- you violated this policy, didn't  
 3 you?  
 4 A Yeah.  
 5 Q And isn't it true that you have shown  
 6 up at work at Hyundai with alcohol on your  
 7 breath?  
 8 MR. JOHNSON: Object to the form.  
 9 A No, I haven't.  
 10 Q You have not. All right. And you say  
 11 in response to your lawyer's questions that you  
 12 had, I think, gotten over the debilitating  
 13 effects of alcohol and cocaine by the time you  
 14 had showed up at work; is that true?  
 15 A What's that?  
 16 Q You told your lawyer you had gotten  
 17 over the debilitating effects of alcohol and  
 18 cocaine by the time you went to work?  
 19 A That would be correct.  
 20 Q When did you get over the debilitating  
 21 effects of both the alcohol and the cocaine?  
 22 MR. JOHNSON: Object to the form.  
 23 A I don't know the mathematical

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## JAMES ALLEN BROOKSHIRE

1 calculations off the top of my head.  
2 Q What's your best judgment?  
3 A Alcohol is out of your body within 24  
4 hours.  
5 Q Well, I'm not talking about anybody's  
6 body. When did you, Jim Brookshire, get over  
7 the effects of cocaine and alcohol that you had  
8 consumed at that party at this gentleman's  
9 house?  
10 A The incident had happened on Saturday,  
11 and I was over the debilitating effects by  
12 Sunday.  
13 Q What time Sunday?  
14 A I don't know. I was fine, out mowing  
15 the yard by lunchtime Sunday.  
16 Q So you didn't even have a hangover;  
17 right?  
18 A (Witness shakes head.)  
19 Q No?  
20 A No. Tired. Tired and thirsty.  
21 Q Did the cocaine make you thirsty or the  
22 alcohol?  
23 A Alcohol.

1 MR. KILBORN: That's all my questions.  
2 Thank you.  
3 FURTHER EXAMINATION  
4 BY MR. JOHNSON:  
5 Q Just to follow up with you,  
6 Mr. Brookshire. Mr. Kilborn referenced on page  
7 39 of the Team Member Handbook, which was been  
8 marked as Plaintiff's Exhibit 15, the last  
9 sentence in the first partial paragraph on page  
10 39 it says HMA also considers off-the-job  
11 illegal drug use as proper cause for  
12 disciplinary action up to and including  
13 termination from employment. Was the  
14 conditional offer of employment to your  
15 knowledge some form of disciplinary action?  
16 MR. KILBORN: Object. Leading.  
17 A Most definitely.  
18 MR. JOHNSON: That's all I have.  
19  
20  
21  
22  
23 FURTHER DEPONENT SAITH NOT

## **Exhibit 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

JERRY LEON DEES, JR., )  
Plaintiff, )  
v. ) CIVIL ACTION NO.:  
HYUNDAI MOTOR MANUFACTURING ) 2:07-cv-00306-MHT-CSC  
ALABAMA, LLC, and HYUNDAI MOTOR )  
AMERICA, INC., )  
Defendants. )

**DECLARATION OF ROB CLEVENGER**

1. My name is Robert A. Clevenger. I am over eighteen (18) years of age, and I have personal knowledge regarding the information contained in this Declaration.

2. I am employed by Hyundai Motor Manufacturing Alabama, LLC as Assistant Manager, Team Member Relations in the Team Relations Department.

3. My responsibilities as Assistant Manager, Team Member Relations include overseeing the investigation of potential disciplinary issues involving Team Members, overseeing the maintenance of documents, information, and files concerning such investigations, and making a presentation to a termination committee on behalf of Team Relations concerning its investigation and related information in situations where an employee is being considered for termination.

4. In particular, I was directly involved in the investigation of Plaintiff Jerry Leon Dees, Jr., with respect to allegations that Jim Brookshire, HMMA's Stamping Production Manager, reported seeing Plaintiff asleep during his shift on February 14, 2007.

5. Under my supervision and instruction, Team Relations Specialist William Ware interviewed Brookshire on February 15, 2007, and prepared a handwritten statement for Brookshire to sign confirming their discussion. A true and accurate copy of the handwritten statement is attached as **Attachment A**.

6. Upon reviewing this initial statement, it was determined that additional confirming information would be helpful in the investigative process and, accordingly, under my supervision and instruction, William Ware interviewed Brookshire again on February 19, 2007, and prepared a handwritten statement for Brookshire to sign confirming their discussion. A true and accurate copy of the handwritten statement is attached as **Attachment B**.

7. Additionally, Team Relations received information from Plaintiff following an interview of Plaintiff conducted by Plaintiff's supervisor, Greg Prater, and attended by William Ware. A Team Relations Memo is customarily prepared following such a meeting and William Ware did in fact prepare such a memo, dated February 21, 2007, which was made part of Team Relations' file materials. A true and accurate copy of this Team Relations Memo is attached as **Attachment C**.

8. On February 23, 2007, I prepared a Team Relations Memo summarizing Team Relations' findings, Plant Engineering Department's recommendation, and information on relevant past practice. In sum, Plant Engineering Department's recommendation was termination given the circumstances, including Brookshire's statements, the fact that the area where Plaintiff was observed is an isolated area suggestive of intent, and, further, given that

Plaintiff's response contained inconsistencies with other evidence and because his response suggested a lack of concern about his job. The past practice considered in this situation involved another employee who, similar to Plaintiff, was discovered sleeping during working hours and was terminated as a result. A true and accurate copy of this Team Relations Memo is attached as

**Attachment D.**

9. On February 26, 2007, I attended the termination committee meeting and presented Team Relations' findings, recommendations, and the above-referenced documents to the committee for consideration. Others that attended the termination committee included Wendy Warner, John Kalson, John Applegate, Rick Neal, and Scott Gordy. A true and accurate copy of the electronic appointment that I sent to these individuals scheduling the termination committee meeting held on February 26, 2007, and listing all of the attendees of termination committee, is attached as **Attachment E**

10. My role in the termination committee process is simply to provide information for the termination committee to consider. Although Team Relations does ordinarily make a recommendation based on its findings, I do not technically have a "vote" on the termination committee and the termination committee is free to disregard Team Relations' findings or request further information before taking action.

11. The information and statements received by Team Relations, including information received from Plaintiff, and the memoranda prepared by Team Relations, contained no information suggesting that Plaintiff was a member of the uniformed services or that he felt he was being harassed by any HMMA Team Member, or that he was otherwise protected by the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301, et seq. ("USERRA") in any relevant aspect. At the time the termination committee met, the

information and documents presented and upon which Plaintiff's termination was based contained no suggestion that Plaintiff was a member of the uniformed service. Likewise, whether or not Plaintiff was a member of the uniformed service was not raised or discussed during the termination committee process and was not a basis or motivating factor related to the discussion, analysis, or decision surrounding his termination.

12. After Plaintiff's employment was terminated, Wendy Warner, the Manager of HMMA's Employment & Benefits Section, instructed me to write a letter to Plaintiff for her signature regarding HMMA's Team Member Review Board process. A true and accurate copy of the letter I wrote to Plaintiff is attached as **Attachment F**.

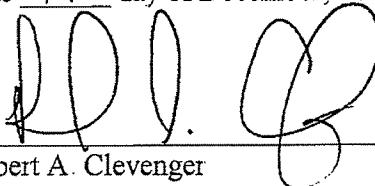
13. The Team Member Review Board process allows Team Members who feel they have been wrongfully terminated to request a review of that termination by a random selection of trained and qualified Team Members.

14. I left Plaintiff separate telephone messages to contact me regarding the Team Member Review Board process on March 2, 2007, March 5, 2007, and March 7, 2007. In the March 7th letter described in paragraph 12 above, I informed Plaintiff that to continue the Team Member Review Process he would have had to attend a meeting with me on March 12, 2007 at 10:00 a.m. to review the process and select a Team Member panel.

15. Plaintiff telephoned and left a message on March 10, 2007 stating that he received the May 7th letter described in paragraph 12 above and that he could not attend the meeting on March 12, 2007.

16. I received no further contact from Plaintiff and am not aware of any additional contact from Plaintiff about his desire to participate in the Team Member Review Process.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing information is true and correct. Executed this the 14 day of December, 2007.

  
\_\_\_\_\_  
Robert A. Clevenger

EXHIBIT

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Interview with Jim Brookshire

On Feb 14 at approx. 1:00 AM, Jim went upstairs to check on some quality issues in the S.O.P. (Side outer)

Jim went up to the 3<sup>rd</sup> floor where he noticed Leon Deo sitting at operating station. Leon was positioned with his head down and his back was towards the cabinet.

Jim observed Leon sitting in this position for approx. 2 minutes.

At this time Jim turned up his radio and let it chirp about 4 times before Leon responded.

Whenever Leon woke up he grabbed a pole and began to act like he was pulling trolleys.

Jim went around to check some panels and when he approached the men again he noticed Leon sitting in the same chair; however, this time he was alert. Not long after this Jim witnessed Leon walking down the stairs.

About 30 minutes passed by before Jim talked to Th. Kevin Hughes. During this time Kevin did not know where Leon was.

J-A Bl 2-15-07

EXHIBIT

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B

Jim was approximately 25 feet away from Leon when he noticed that he was asleep.

Jim walked towards Leon and began chirping his radio at a distance approx 15 feet.

Due to Leon's hat being on his head Jim did not see his eyes closed; however he (Jim stated that his head was facing towards the floor, tot with his chin tucked to his chest)

J-A-B  
2-19-07

**EXHIBIT**

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C

 HYUNDAI Hyundai Motor Manufacturing Alabama	<b>TEAM RELATIONS MEMO</b>	HR-AL-HR-TR-F-00002
Revision Date: 05/26/06	Owner: Team Relations	Revision Level: 02

**TO:** Rob Clevenger**FROM:** William Ware**DATE:** February 21, 2007**SUBJECT:** Leon Dees**Interview with Leon Dees, William Ware, and Greg Prater**

Greg began our talk with Leon by informing him that a member of management noticed him on the third floor asleep on the morning of February 8th. Leon responded, "I was not asleep, I know exactly who you are talking about, call Jim Brookshire in here and I will confront him right now." Greg calmed Leon down and explained that the reason why we had assembled into the room was so that we could get his side of the story. Leon stated that he was sitting in a chair text messaging his daughter due to the bad weather outside. His location was at the RO 1 station. Leon stated that this event took place around 10:30-11:30 pm. Leon also contends that Jim never approached him. In fact when asked what was the closest Jim came to him he replied about "55 feet." Leon made the following comment several times; he sat and watched Jim walk around on the third floor; however, he is to the point where he does not care about what people say. He went on to say that we complain over and over again but nothing happens, so I just don't care anymore. "If something breaks then I will fix it but I will not run the shop like I used to."

EXHIBIT

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 HYUNDAI Hyundai Motor Manufacturing Alabama	Team Relations Memo	HR-AL-HR-TR-F-00002
Revision Date: 9-Sept-04	Owner: Team Relations	Revision Level: 00

**TO:** Greg Kimble  
**FROM:** Rob Clevenger  
**DATE:** February 23, 2007  
**SUBJECT:** Leon Dees/ Term

**Summary:** On February 14, 2007 at approximately 1am, Jim Brookshire (mgr, stamping) was in the stamping third level looking at a quality issue. The third level overhead is approximately 75ft off the ground. It is an isolated area. This is where the side outer panels are warehoused in overflow.

Jim noticed Leon sitting in front of a panel in a chair. Jim states Leon was asleep with his head down and his chin tucked to his chest. Jim states he was 25ft away when he first noticed Leon. Two doors of the panel were open which served as a blind and hide Leon from most views. He moved to within 15ft of Leon and observed him for approximately Two (2) minutes. At that time Jim keyed the mike on his radio and it made a chirping sound several times. At this sound Leon lifted his head then got up and picked up a tool used to clear carrier when they become inoperable.

Leon did not speak to Jim or explain his presence in the overhead. Jim also noted there were no carriers that were in need of service. There is no reason for a maintenance person to be in the overhead unless there is an immediate need for carrier repair.

In Leon's statement he says the time was 10:30pm to 11:30pm. He also states he was sitting in the overhead text messaging his daughters regarding the weather and was not asleep. Leon states Jim never got closer than 50ft from him. Leon became agitated and stated he didn't give a damn and was tired of this shit.

**Conclusion:** Leon's statement does not match the timeline or the proximity described by the stamping manager. I believe we must give weight to the manager's account and assume that the event took place at 1am on Wednesday morning. The storms had passed our area by 7:15pm on Tuesday evening. I have a signed statement by the stamping manager that he was 15ft from Leon and observed him for 2 minutes. There was a chair placed in between the two open doors. The area is several feet off the floor and is an area that a maintenance man would enter fix a carrier and then leave. There is not a need or a practice where a person would need a chair and be waiting in that area for a breakdown to occur. The department is asking for termination.

 HYUNDAI Hyundai Motor Manufacturing Alabama	Team Relations Memo	HR-AL-HR-TR-F-00002
Revision Date: 9-Sept-04	Owner: Team Relations	Revision Level: 00

Past Practice:

10270	5 King	Ontario	Engine	3-Jan-06	Inappropriate conduct	Sleeping during work hours
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REDACTED - PRIVILEGED

**EXHIBIT**

E

  
**HYUNDAI**

Motor Manufacturing Alabama, LLC  
700 Hyundai Blvd.  
Montgomery, AL 36105

**EXHIBIT**

tables\*

F

March 7, 2007

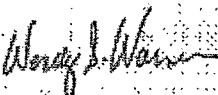
Jerry Leon Dees Jr.  
14808 US Hwy 82  
Maplesville, AL 36750

Dear Leon:

You were left a phone message on March 2, 2007, stating you had met the contact requirement for Team Member Review. On March 5, 2007 and again on March 7, 2007 you were contacted but a phone-answering machine was reached.

To continue the Team Member Review process you must meet with Rob Clevenger on Monday March 12, 2007 at 10:00am to review the process and select your panel. At that time you will be given the date and time of your review panel meeting. Please come to the security building at gate 3 at the specified time above.

Sincerely,



Wendy Warner  
Manager, Employment  
Hyundai Motor Manufacturing Alabama, LLC

HE DID NOT  
ATTEND THIS  
MEETING. HE LEFT  
A PHONE MSG ON  
SATURDAY 3/10/07  
STATING HE RECEIVED THE  
LETTER BUT COULD NOT  
ATTEND. NO FURTHER  
CONTACT FROM MR. DEES'

Dees v. HMMA 0321  
Docs Produced

11/15/07

JTS

Additional Doc Produced

## **Exhibit 3**

## FREEDOM COURT REPORTING

<p style="text-align: center;">Page 5</p> <p>1 IN THE UNITED STATES DISTRICT COURT    2 FOR THE MIDDLE DISTRICT OF ALABAMA    3 NORTHERN DIVISION    4    5 CASE NUMBER: 2:07-cv-00306-MHT-CSC    6 JERRY LEON DEES, JR.,    7 Plaintiff,    8 vs.    9 HYUNDAI MOTOR MANUFACTURING    10 ALABAMA, LLC, and HYUNDAI    11 MOTOR AMERICA, INC.,    12 Defendants.    13 BEFORE:    14 ANGELA SMITH MCGALLIARD, Commissioner.    15 APPEARANCES:    16 VINCENT KILBORN, ESQUIRE, of    17 KILBORN, ROEBUCK &amp; MCDONALD, 1810 Old    18 Government Street, Mobile, Alabama 36606,    19 appearing on behalf of the Plaintiff.    20 JEFFREY R. SPORT, ESQUIRE, of    21 KILBORN, ROEBUCK &amp; MCDONALD, 1810 Old    22 Government Street, Mobile, Alabama 36606,    23 appearing on behalf of the Plaintiff.</p>	<p style="text-align: center;">Page 7</p> <p>1 I, ANGELA SMITH MCGALLIARD, RPR,    2 CRR, a Court Reporter of Pike Road, Alabama,    3 acting as Commissioner, certify that on this    4 date, as provided by the Federal Rules of    5 Civil Procedure and the foregoing    6 stipulation of counsel, there came before me    7 at the offices of Freedom Court Reporting,    8 416 S. Perry Street, Montgomery, Alabama    9 36104, beginning at 9:10 a.m., Jerry Leon    10 Dees, Jr., witness in the above cause, for    11 oral examination, whereupon the following    12 proceedings were had:    13 JERRY LEON DEES, JR.,    14 being first duly sworn, was examined and    15 testified as follows:    16 MR. KILBORN: Court reporter,    17 can you keep the time for us?    18 COURT REPORTER: Certainly.    19 Usual stipulations?    20 MR. JOHNSON: I assume that    21 means the usual stipulations that we've got    22 in the guidelines --    23 MR. KILBORN: Witness waives</p>
<p style="text-align: center;">Page 6</p> <p>1 APPEARANCES (continued):    2 MATTHEW K. JOHNSON, ESQUIRE, of    3 OGLETREE, DEAKINS, NASH, SMOAK &amp; STEWART,    4 The Ogletree Building, 300 North Main    5 Street, Greenville, South Carolina 29602,    6 appearing on behalf of the Defendants.    7 CHRISTOPHER N. SMITH, ESQUIRE, of    8 HYUNDAI MOTOR MANUFACTURING ALABAMA, 700    9 Hyundai Boulevard, Montgomery, Alabama    10 36105, appearing on behalf of the    11 Defendants.    12 ALSO PRESENT: Katherine Dees    13 Bobby Hall    14 *****    15    16    17    18    19    20    21    22    23</p>	<p style="text-align: center;">Page 8</p> <p>1 the reading and signing and all objections    2 except as to the form are reserved until    3 trial.    4 MR. JOHNSON: Sounds fine with    5 me.    6 EXAMINATION    7 BY MR. JOHNSON:    8 Q. Okay, Mr. Dees, my name is    9 Matt Johnson. I practice law at Ogletree,    10 Deakins. And I'm here basically to ask you    11 some questions about yourself and about this    12 case, and what you know about this case, and    13 other people that might know about the case.    14 This may seem like a fairly    15 formal proceeding, but I'm sort of here to    16 have a conversation with you and just ask    17 you questions.    18 Let me tell you up front,    19 occasionally I'm thinking two or three    20 questions down the line; and for better or    21 for worse, sometimes I ask questions that    22 don't make sense, and I apologize. If I do    23 that, I want you to stop me, and let me know</p>

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<p style="text-align: right;">Page 9</p> <p>1 that. Don't be embarrassed. I'm fairly      2 thick skinned; and if I don't make sense or      3 my questions don't make sense, that's okay      4 with me. You just let me know because I      5 just want to make sure you're comfortable      6 and that you're answering questions that you      7 understand. Okay?</p> <p>8 A. I'll do it.</p> <p>9 Q. And the other thing, our court      10 reporter here is typing up everything that      11 we say. And she's probably got one of the      12 harder jobs of any of us today, so we want      13 to make her job as easy as we can. The best      14 way to do that is to make sure we speak up      15 loud and clear. Okay?</p> <p>16 A. Roger.</p> <p>17 Q. And if you can, Roger may      18 work, assuming that means yes. But I'd      19 prefer, and I'm sure our court reporter      20 would prefer it if you could say yes or no.      21 Is that okay?</p> <p>22 A. Yes.</p> <p>23 Q. Again, nods, shrugs of the</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. And you swear to tell the      2 truth?</p> <p>3 A. Whole truth, nothing but the      4 truth, so help me God.</p> <p>5 Q. Okay. And are you on any      6 medication that would prohibit you from      7 understanding me or my questions?</p> <p>8 A. No, sir.</p> <p>9 Q. Are you on any medication that      10 would prohibit you from being able to answer      11 truthfully and accurately?</p> <p>12 A. I'm not on any type of      13 medication.</p> <p>14 Q. Thank you.</p> <p>15 If you would give me your full      16 name, including your middle name.</p> <p>17 A. Jerry Leon Dees, Junior.</p> <p>18 Q. Have you ever gone by any      19 other names?</p> <p>20 A. No, sir. Yeah. Staff      21 sergeant.</p> <p>22 Q. What's your date of birth?</p> <p>23 A. [REDACTED] '65.</p>
<p style="text-align: right;">Page 10</p> <p>1 shoulders, things of that nature are      2 difficult for her to write up, so make sure      3 everything you want to get across to me or      4 to her is in loud, clear, spoken English.      5 Okay?</p> <p>6 A. No problem.</p> <p>7 Q. I appreciate it.</p> <p>8 And this is not an endurance      9 contest. It's probably going to take longer      10 than you or I want it to, but that's just      11 the way it goes, and I apologize in advance.      12 What I want to make sure you understand is      13 that you can take a break whenever you want      14 to; you can try to get something to drink if      15 we can find something; you can use the      16 restroom; you can stand up and walk around      17 as you'd like. Okay?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. Finally, I just want to      20 make sure before we get started into the      21 heart of things that you understand this is      22 sworn testimony?</p> <p>23 A. Yes.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Where were you born?</p> <p>2 A. [REDACTED], Alabama.</p> <p>3 Q. [REDACTED]?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Where is that?</p> <p>6 A. [REDACTED] County.</p> <p>7 Q. What's that near?</p> <p>8 MR. SPORT: It's an hour north      9 of here.</p> <p>10 A. It's out in the middle of the      11 woods.</p> <p>12 (Off-the-Record discussion      13 was held.)</p> <p>14 Q. What's your current address?</p> <p>15 A. [REDACTED],      16 [REDACTED], Alabama [REDACTED].</p> <p>17 Q. And do you own a house -- Is      18 that a house?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Do you own it or rent it?</p> <p>21 A. Well, the bank owns it right      22 now. Give me about thirteen more years, and      23 I might own it.</p>

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<p>1     <b>Q.</b> Do you have any secondary 2     residences?</p> <p>3     A. Yeah. The armory one weekend 4     a month.</p> <p>5     <b>Q.</b> And where do you work 6     currently?</p> <p>7     A. International Paper, 8     Prattville Mill.</p> <p>9     <b>Q.</b> What do you do at the 10    Prattville mill?</p> <p>11    A. Millwright, maintenance.</p> <p>12    <b>Q.</b> How long have you been there?</p> <p>13    A. Few months.</p> <p>14    <b>Q.</b> Okay. Do you remember which 15    month you started?</p> <p>16    A. Approximately four months ago.</p> <p>17    <b>Q.</b> Okay. And when you started 18    there four months ago, were you doing 19    millwright/maintenance?</p> <p>20    A. Yes, sir.</p> <p>21    <b>Q.</b> And prior to that, where did 22    you work?</p> <p>23    A. BE&amp;K Construction Company at</p>	<p>1     A. Maintenance supervisor.</p> <p>2     <b>Q.</b> Who is Neil Causey's boss?</p> <p>3     A. I have no idea.</p> <p>4     <b>Q.</b> Okay.</p> <p>5     A. I haven't been there in a 6     month. I've been at an Army school for the 7     last month, so I don't know.</p> <p>8     <b>Q.</b> Okay. What kind of Army 9     school have you been at?</p> <p>10    A. BNCO Phase II and III, Staff 11    NCO Advanced Leadership School.</p> <p>12    <b>Q.</b> Now, one thing I want to ask 13    you to do, both for my sake and for our 14    court reporter's sake. I know throughout 15    this deposition we're going to refer to a 16    lot of Army terms, and say them slow or 17    spell them or do whatever you can to make 18    sure it gets on the Record clearly.</p> <p>19    A. It's B-N-C-O-C, Basic 20    Noncommissioned Officers Course.</p> <p>21    <b>Q.</b> Okay. If you can, I know you 22    guys use a lot of abbreviations and stuff, 23    for purposes of this, if you could make sure</p>
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<p>1     that mill.</p> <p>2     <b>Q.</b> At the Prattville mill?</p> <p>3     A. Yes, sir.</p> <p>4     <b>Q.</b> What were you doing for BE&amp;K?</p> <p>5     A. Millwright, millwright and 6     welder.</p> <p>7     <b>Q.</b> Was that different than what 8     you're doing now?</p> <p>9     A. Not really, no.</p> <p>10    <b>Q.</b> Prior to BE&amp;K where was the 11    last place you worked?</p> <p>12    A. Hyundai.</p> <p>13    <b>Q.</b> Do you remember what month you 14    started work at BE&amp;K?</p> <p>15    A. 27 February '07.</p> <p>16    <b>Q.</b> Okay. And who is your 17    supervisor at the Prattville mill?</p> <p>18    A. Neil Causey.</p> <p>19    <b>Q.</b> Can you spell Causey?</p> <p>20    A. Causey, C-A-U-S-E-Y, I 21    believe. I'm not sure.</p> <p>22    <b>Q.</b> Okay. What is his position at 23    the mill?</p>	<p>1     and give us the full, plain spoken English.</p> <p>2     A. No acronyms?</p> <p>3     <b>Q.</b> Just define them before you 4     start using them. Okay?</p> <p>5     A. All right.</p> <p>6     <b>Q.</b> Tell me, what is your Social 7     Security number?</p> <p>8     A. ██████████. Why?</p> <p>9     <b>Q.</b> You say why -- Why did I ask?</p> <p>10    A. Yes, sir.</p> <p>11    <b>Q.</b> Well, because I'm taking your 12    deposition.</p> <p>13    And your driver's license 14    number?</p> <p>15    A. ██████████.</p> <p>16    <b>Q.</b> Is that an Alabama license?</p> <p>17    A. Yes, sir.</p> <p>18    <b>Q.</b> Is it restricted in any way?</p> <p>19    A. Negative.</p> <p>20    <b>Q.</b> Okay. You don't wear glasses?</p> <p>21    A. No, sir.</p> <p>22    <b>Q.</b> And I'm assuming -- We have 23    some other people here today, and I'm</p>

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1	<b>assuming one of them is your wife?</b>		
2	A. Yes, sir.	1 all the way out to California.	
3	Q. Okay. And what is her name?	2 Q. I'm only interested in the	
4	A. [REDACTED]	3 ones in Alabama.	
5	Q. [REDACTED] with a K?	4 A. Well, I don't know.	
6	A. [REDACTED], Yun, Y-U-N,	5 Q. You can give me their last	
7	Dees.	6 names, can't you?	
8	Q. How long have y'all been	7 A. Yeah. Dees, Mobley,	
9	married?	8 Patterson, Bates, Peek. Heck I could go on	
10	A. Twenty-two years.	9 all day. I don't know.	
11	Q. And where is she from?	10 Q. How do you spell Peek?	
12	A. [REDACTED]	11 A. P-E-E-K.	
13	Q. And prior to Mrs. Dees that's	12 Q. I'm assuming this jury will be	
14	here with us today, have you ever been	13 drawn from people that live somewhere in	
15	married before?	14 proximity to Montgomery. Do most of your	
16	A. No, sir.	15 relatives live in and around Montgomery?	
17	Q. Do you and Mrs. Dees have any	16 A. I have some in Montgomery but	
18	children?	17 not most of them, no. Like I said, they're	
19	A. Two.	18 scattered throughout the state.	
20	Q. What are their names?	19 Q. The ones that live in	
21	A. [REDACTED], [REDACTED], [REDACTED],	20 Montgomery, can you give me the names of	
22	common spelling, Dees; [REDACTED], [REDACTED],	21 some of the ones that live in or around	
23	[REDACTED], common spelling, Dees.	22 Montgomery. By the way, I need you to	
		23 answer.	
		Page 18	Page 20
1	Q. How old are [REDACTED] and	1 A. I'm trying -- She knows more	
2	[REDACTED]?	2 of my family than I do. I grew up in	
3	A. Twenty-one and sixteen --	3 Alabama, but all I do is work.	
4	seventeen. She just had a birthday.	4 MR. KILBORN: You can't talk	
5	Q. I assume those are the only	5 to Katherine. He just wants to know what	
6	two children you have?	6 you know.	
7	A. Roger. Yes, sir.	7 A. Distant cousins, no, I don't	
8	Q. Okay. Do you have other	8 know them.	
9	relatives by blood or marriage that live in	9 Q. I'm assuming you're a U.S.	
10	Alabama?	10 citizen?	
11	A. A lot of them.	11 A. Yes, sir.	
12	Q. You do?	12 Q. Did you graduate from high	
13	A. Yes, sir.	13 school?	
14	Q. Tell me the names or towns	14 A. Clay County High School,	
15	where they might live.	15 Ashland, Alabama.	
16	A. Oh, God.	16 Q. And when did you graduate?	
17	Q. Let me explain why I'm asking.	17 A. May '83.	
18	At some point we may have to pick a jury in	18 Q. And did you go to college?	
19	this case, I don't want your cousin, aunt,	19 A. Some college.	
20	or uncle sitting on the jury.	20 Q. Where?	
21	A. You're probably out then.	21 A. Didn't graduate. Through the	
22	I've got relatives all over the state, all	22 military, University of Maryland, Wallace	
23	the way up to South Carolina, Fort Bragg,	23 Community College in Selma, and J.P. Tech.	

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<p style="text-align: right;">Page 21</p> <p>1       <b>Q.</b>   J.P. Tech?</p> <p>2       A.    Yeah. It's Faulkner now, I 3 believe.</p> <p>4       <b>Q.</b>    Say that again.</p> <p>5       A.    They changed the name to 6 Faulkner.</p> <p>7       <b>Q.</b>    Faulkner Tech?</p> <p>8       A.    I'm not sure what it is. It 9 was John Patterson Technical College when I 10 went there.</p> <p>11      <b>Q.</b>    Okay. You mentioned one in 12 between the military University of Maryland 13 and J.P. Tech, what was that?</p> <p>14      A.    Wallace Community College, 15 Selma.</p> <p>16      <b>Q.</b>    And you did not get a degree 17 from any of those three institutions?</p> <p>18      A.    No, sir.</p> <p>19      <b>Q.</b>    And what did you study at the 20 military University of Maryland?</p> <p>21      A.    It wasn't military. It was 22 the University of Maryland, when I was in 23 the military.</p>	<p style="text-align: right;">Page 23</p> <p>1       A.    Wallace was welding.</p> <p>2       <b>Q.</b>    In welding, can you get some 3 sort of certification for that?</p> <p>4       A.    Yes, sir, if you stay there 5 the whole two years.</p> <p>6       <b>Q.</b>    All right.</p> <p>7       A.    I had a family to feed, I 8 couldn't afford to stay there the whole two 9 years.</p> <p>10      <b>Q.</b>    So you did not become 11 certified?</p> <p>12      A.    No, sir.</p> <p>13      <b>Q.</b>    And you're doing some welding 14 now at the Prattville mill?</p> <p>15      A.    When it -- When it arises, 16 yes, sir.</p> <p>17      <b>Q.</b>    Okay. Is that something that 18 you would need to be certified for?</p> <p>19      A.    I got certified through one of 20 the companies I worked for. But as far as 21 actual certification, unless you're welding 22 on a boiler, or any type of military 23 equipment, stuff like that, no, you don't --</p>
<p style="text-align: right;">Page 22</p> <p>1       <b>Q.</b>   Got it.</p> <p>2       A.    Just core, basics, science, 3 English, math.</p> <p>4       <b>Q.</b>   And at J.P. Tech or Faulkner?</p> <p>5       A.    Maintenance program.</p> <p>6       <b>Q.</b>   How much time did you spend at 7 the University of Maryland?</p> <p>8       A.    I don't know. Depends on how 9 often I was deployed. I don't know, maybe a 10 year. I don't know. I mean, it was off and 11 on. It wasn't on a campus. Military brings 12 instructors in to the bases and the posts, 13 and you'll meet at a building there. And I 14 had a certified college instructor, and 15 that's where you had the classes. I was 16 never on the campus, except for J.P. Tech 17 and Wallace.</p> <p>18      <b>Q.</b>   What kind of maintenance did 19 you study at J.P. Tech?</p> <p>20      A.    Hydraulics, pneumatics, 21 electrical, blueprint reading, basic 22 maintenance technician studies.</p> <p>23      <b>Q.</b>   Okay. What about --</p>	<p style="text-align: right;">Page 24</p> <p>1       If it's a pressurized vessel, you need a 2 certification; if it's not pressurized or 3 done to code -- some code you can get by 4 welding without a certification, like on 5 water tanks and stuff, you just have be able 6 to pass X-rays.</p> <p>7       <b>Q.</b>   Okay. But now you're 8 certified?</p> <p>9       A.    Well, I don't know if it is 10 still current or not to be honest. It was 11 before I went to work for Hyundai.</p> <p>12      <b>Q.</b>   Who were you working with?</p> <p>13      A.    Sim-Cala.</p> <p>14      <b>Q.</b>   Sim-Cala. Other than the 15 schooling you got at University of Maryland, 16 J.P. Tech, Wallace Community College in 17 Selma, have you attended any other classes 18 or seminars since you got out of high 19 school?</p> <p>20      A.    Just the classes that 21 International Paper sent all their 22 maintenance people to.</p> <p>23      <b>Q.</b>   Okay. What was that?</p>

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<p>1 A. Well, I mean, same thing. We 2 got precision skilled craftsman classes, 3 it's a forty- or eighty-hour class, I can't 4 remember. Same thing, hydraulic classes, 5 welding classes.</p> <p>6 Q. And did IP pay for that?</p> <p>7 A. Yes.</p> <p>8 Q. And did they pay you for your 9 time away from work or how did that work?</p> <p>10 A. Instead of going to work, we 11 went to the schools.</p> <p>12 Q. You got paid for the time?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And how many hours was that?</p> <p>15 A. Altogether at different 16 schools, I have no idea. I mean, skilled 17 craftsman class was just one school. We 18 went to the same thing just like J.P. Tech, 19 blueprint reading classes, hydraulics. It 20 could go anywhere from a day to two or three 21 weeks, depending on what class it was. That 22 was several years back.</p> <p>23 Q. That was at -- I think you</p>	<p>1 A. I believe so.</p> <p>2 Q. And during the time period 3 that you were at the Thorsby mill, what did 4 you do?</p> <p>5 A. I started out as just a 6 regular maintenance man. And when I left, I 7 was a maintenance leadman.</p> <p>8 Q. And what does a maintenance 9 leadman do?</p> <p>10 A. Schedules the work for all the 11 other shifts, for the -- all four 12 maintenance shifts we had; I was in charge 13 of the major projects; I basically handled 14 everything while the supervisor just took 15 care of all the paperwork.</p> <p>16 Q. Okay.</p> <p>17 A. All the major calls, I'd 18 respond to the major breakdowns, decide what 19 action we was going to take, let the 20 supervisor know what was going on, and go 21 from there.</p> <p>22 Q. Was that similar to what you 23 were doing at Hyundai?</p>
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<p>1 worked at International Paper before you 2 came to Hyundai?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. Let's go back and talk 5 about your employment history before 6 Hyundai. Do you remember when you started 7 with Hyundai?</p> <p>8 A. It was either 19 or 21 9 November '05.</p> <p>10 Q. All right. Let's walk 11 backwards. Where were you working until 12 November of '05?</p> <p>13 A. International Paper, Thorsby.</p> <p>14 Q. I'm sorry?</p> <p>15 A. I was at a different mill than 16 I am now. I was at the Thorsby mill.</p> <p>17 Q. How do you spell Thorsby?</p> <p>18 A. T-H-O-R-S-B-Y.</p> <p>19 Q. How long were you at the 20 Thorsby mill?</p> <p>21 A. Six years.</p> <p>22 Q. Do you remember -- So you 23 would have started in '99?</p>	<p>1 A. No, sir.</p> <p>2 Q. Okay. How was it different?</p> <p>3 A. At Hyundai I was just a 4 regular maintenance technician.</p> <p>5 Q. You said you had done regular 6 maintenance at the Thorsby mill also?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Was what you were doing at the 9 Thorsby mill consistent with what you were 10 doing at Hyundai?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Tell me what you were doing at 13 the Thorsby mill as a regular maintenance 14 person?</p> <p>15 A. Same thing, answer calls; work 16 orders that came down, I'd handle them; 17 breakdowns; break-ins; welding, hydraulics; 18 pneumatics; electrical; just regular 19 maintenance work.</p> <p>20 Q. But what you were doing at the 21 Thorsby mill was essentially the same as 22 what you were later doing at Hyundai?</p> <p>23 A. Yes, sir. Basically.</p>

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<p style="text-align: center;">Page 29</p> <p>1     <b>Q.</b> How much were you getting paid 2 at Thorsby mill for maintenance? 3     A. Fifteen -- No. I topped out 4 -- I went to the pay for skills program, it 5 was eighteen something. 6     <b>Q.</b> Per hour? 7     A. Yes, sir. I started out at 8 fifteen, and topped out at eighteen 9 something. 10    <b>Q.</b> And what about as a 11 maintenance leadman? 12    A. Twenty dollars, little over 13 twenty dollars. 14    <b>Q.</b> How long did you work as a 15 maintenance leadman? 16    A. Approximately three years, I 17 believe. I think. I'm not sure. 18    <b>Q.</b> Okay. Who -- As a -- When you 19 were a regular maintenance tech, who was 20 your supervisor? 21    A. John Allen. 22    <b>Q.</b> Allen? 23    A. A-L-L-E-N.</p>	<p style="text-align: center;">Page 31</p> <p>1 to have, better benefits. Had better 2 benefits there than any place I've ever had, 3 even in the military. 4     <b>Q.</b> Okay. 5     A. Better pay. Like I say, that 6 was the job to have. 7     <b>Q.</b> When you say job to have, you 8 mean generally in the community, or just for 9 you personally? 10    A. No. Everywhere around where I 11 lived, it was either Mercedes or Hyundai, 12 everybody was wanting to go to one of the 13 two. 14    <b>Q.</b> Okay. 15    A. They both had outstanding 16 benefits, the work conditions weren't near 17 as rigorous as what we had. It was in a 18 controlled environment, air conditioned in 19 the summer, heated in the winter. And pay, 20 pay was a lot better than any wood yard you 21 were going to work on. 22    <b>Q.</b> Okay. Did you know anybody 23 that was working for Hyundai before you went</p>
<p style="text-align: center;">Page 30</p> <p>1     <b>Q.</b> And when you were a 2 maintenance leadman, who was your 3 supervisor? 4     A. John Allen. 5     <b>Q.</b> What was his role? 6     A. He was a maintenance 7 supervisor on the old part of the mill. 8 There was two parts to the mill, we had an 9 old part and a new part, and he had 10 everything on the old side. 11    <b>Q.</b> Okay. And how much -- When 12 you started at Hyundai, what were you making 13 per hour? 14    A. Nineteen fifty-six. 15    <b>Q.</b> What were you making when you 16 left? 17    A. Twenty-three thirty-five. 18    <b>Q.</b> And what were the 19 circumstances of you leaving the Thorsby 20 mill? Why did you leave? 21    A. Go to work for Hyundai. 22    <b>Q.</b> Okay. 23    A. That was a -- That was the job</p>	<p style="text-align: center;">Page 32</p> <p>1 to work there? 2     A. Yes, sir. A couple of 3 production people from the mill I worked at 4 had gotten jobs down there in production. 5     <b>Q.</b> Who was that? 6     A. Lamar Powell; I can't remember 7 Mike's last name. Mike somebody, I can't 8 remember his last name. And another guy we 9 called him Scooby, I don't know his real 10 name. 11    <b>Q.</b> Okay. Scooby? 12    A. Yes, sir. 13    <b>Q.</b> Okay. Did you talk to Lamar 14 Powell or Mike or Scooby about coming to 15 work for Hyundai before you came? 16    A. No, sir. When we left the 17 plant -- They probably left the plant six 18 months before I got hired on there. The 19 hours they were working, nobody talked to 20 them. 21    <b>Q.</b> Okay. They were working -- 22    A. Long hours. 23    <b>Q.</b> Okay. What -- Once you came</p>

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Page 33	Page 35
<p>1 to work for Hyundai, did you talk to Lamar      2 Powell or Mike or Scooby?      3 A. Scooby, no. Lamar and Mike, a      4 couple of times.      5 Q. Okay. Did you talk to them      6 about your military career or uniformed      7 service or anything like that as --      8 A. They asked was I going back to      9 Iraq any time soon, and I told them I didn't      10 know.      11 Q. Okay. Anything else y'all      12 talked about in terms of your military      13 career?      14 A. Asked me was I still in, yeah.      15 Q. I assume they were not members      16 of the Guard?      17 A. No, sir.      18 Q. Did you talk to them about      19 Greg Prater at all?      20 A. No, sir.      21 Q. Did you talk to them about      22 Kevin Hughes at all?      23 A. No, sir.</p>	<p>1 A. At the foundry?      2 Q. Uh-huh.      3 A. Maintenance. It was more      4 welding than anything.      5 Q. Okay. And give me your dates      6 of employment at Sim-Cala.      7 A. I don't know. I mean, I don't      8 know. That was years ago.      9 Q. Okay.      10 A. I don't know.      11 Q. Okay. Do you remember who      12 your supervisor was?      13 A. Huh-uh. I can't remember his      14 name. He was a short fellow. I can't      15 remember his name.      16 Q. Okay. Did you have any sort      17 of on-the-job training with Sim-Cala?      18 A. Yeah. They're the ones that      19 sent me to J.P. Tech. You had to go to J.P.      20 Tech. And, no, I wasn't paid.      21 Q. Did they send you at night?      22 A. Yes, sir. I had to complete      23 my ten-hour work shift, then go to school.</p>
Page 34	Page 36
<p>1 Q. Did you talk to them about      2 John Applegate at all?      3 A. I don't think so.      4 Q. Okay.      5 A. I'd see them -- They worked      6 production, they was on the line. You may      7 get to talk to them a minute at the most,      8 because they don't stop the line. Because      9 if the line stops, it ain't good.      10 Q. Okay. And going back to your      11 employment history, let's talk about your      12 work prior to going to IP at the Thorsby      13 mill. Where did you work before that?      14 A. Sim-Cala.      15 Q. And what did you do at      16 Sim-Cala?      17 A. Maintenance.      18 Q. And when you say maintenance,      19 were you doing basically the same thing you      20 were doing as a regular maintenance person      21 at the IP Thorsby mill?      22 A. Yes and no. It was a foundry.      23 Q. And what were you doing there?</p>	<p>1 Q. Okay. And what was the reason      2 for the termination of the position at      3 Sim-Cala?      4 A. Wasn't termination. I quit --      5 left there to go to International Paper.      6 Q. Why?      7 A. Better pay. I mean, make a      8 better living for my family.      9 Q. Anything other than better      10 pay?      11 A. Yeah. We didn't have good      12 insurance. I mean, that was -- Sim-Cala was      13 a rough job. I mean, it was a rough job.      14 Even in the winter time, it was a      15 hundred-some-odd degrees in the plant.      16 Don't nobody want to work there.      17 Q. Okay. Is it still in      18 business?      19 A. I have no idea.      20 Q. Where was Sim-Cala?      21 A. Off the Mt. Meigs exit here in      22 Montgomery.      23 Q. Mt. Meigs?</p>

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1	A. Uh-huh.	1	(Whereupon, Defendant's
2	Q. And prior to Sim-Cala, where	2	Exhibit No. 1 was marked
3	did you work?	3	for identification.)
4	A. Miller Mechanical. It is a	4	(Off-the-Record discussion
5	company out of New York.	5	was held.)
6	Q. What did you do for them?	6	Q. Mr. Dees, what we've marked as
7	A. Worked shutdowns in paper	7	Exhibit 1 to your deposition, you agree
8	mills.	8	that's your resume?
9	Q. So you traveled for that?	9	A. Starting at the top?
10	A. Yes, sir.	10	Q. Sure.
11	Q. Were you married then?	11	A. All right. Projective,
12	A. Yes, sir.	12	employment with Hyundai Corporations --
13	Q. Imagine that was rough?	13	Q. No. No. No. You don't have
14	A. Yes, sir.	14	to read it. Just look at it and tell me if
15	Q. How long were you with them?	15	that is what it looks like.
16	A. Several years.	16	A. Yes, sir.
17	Q. Do you remember what years?	17	Q. That was your resume?
18	A. No, sir. To be honest, no.	18	A. Yes, sir.
19	Q. And what -- you say you did --	19	Q. And to your knowledge, was
20	you traveled and did shutdowns for Miller	20	that the one that you submitted to Hyundai
21	Mechanical?	21	when you applied?
22	A. Yeah.	22	A. Yes, sir.
23	Q. Tell me what that involved.	23	Q. Okay. That's all I've got to
Page 38		Page 40	
1	A. We worked in the pulp	1	ask on that one.
2	divisions. We did everything from changing	2	All right. Mr. Dees, let's
3	out motors, pumps, welding in the digesters,	3	talk a little bit about your background in
4	changing screens out. Anything to do in the	4	the military. I think you said your
5	pulp division, we did it.	5	employment prior to Miller Mechanical was
6	Q. Okay. And prior to Miller	6	basically in the military. So let's take
7	Mechanical, do you remember where you	7	it, I guess, from the bottom. You got out
8	worked?	8	of high school and went in the military?
9	A. I think it was just military	9	A. No, sir. I went to basic
10	there.	10	training before I ever graduated. Army
11	Q. Just in the military?	11	Basic Training, Fort McClellan, Alabama.
12	A. Yes, sir.	12	Q. Okay. And when did you do
13	Q. Okay. Mr. Dees, let me give	13	basic?
14	you what we have been provided by your	14	A. Summer of '82. Between my
15	attorneys. I'm assuming this is your	15	junior and senior year of high school.
16	resume?	16	Q. Okay. And is Fort McClellan,
17	A. Yes, sir.	17	is that an Army base?
18	Q. If you see down at the bottom	18	A. Yes, sir.
19	it says Dees V. HMMA 00013.	19	Q. And so then you did basic
20	MR. KILBORN: Do you want to	20	training in the summer and then went back
21	go ahead and mark it.	21	and finished high school?
22	MR. JOHNSON: Yeah, let's go	22	A. Yes, sir.
23	ahead and mark it.	23	Q. Okay. Then when you got out

10 (Pages 37 to 40)

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<p style="text-align: right;">Page 41</p> <p>1 of high school, did you go back into the 2 Army? 3 A. No, sir. I went to basic 4 training for the Army National Guard. 5 Q. That's what you did in the 6 summer of '82? 7 A. Yes, sir. 8 Q. Okay. Well, talk me through 9 your military career, starting the summer of 10 '82. 11 A. Summer of '82, basic training, 12 Fort McClellan, Alabama. 13 Q. Okay. 14 A. Summer of '83, Lackland Air 15 Force Base. Left the guard, went to the Air 16 Force. Army wouldn't let me be an MP and 17 that's what I wanted to do, that or 18 infantry, and they wouldn't let me go either 19 one so I went to the Air Force. Went to the 20 Air Force as an MP school. 21 Q. Okay. When did you do that? 22 A. '83. 23 Q. All right. Did you have to do</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. Okay. 2 A. M-60 machine gun nonspecialist 3 school, then M-60 machine gun specialist, 4 that was another four weeks. 5 Q. The machine gun nonspecialist 6 school? 7 A. Was two weeks. And the 8 specialist school was two weeks. Four weeks 9 to be a machine gunner. 10 Q. Where was this school? 11 A. Camp Bullis. 12 Q. And the specialist school was 13 also at Bullis? 14 A. Camp Bullis. 15 Q. And that took four weeks? 16 A. Four weeks for the total of 17 both of them, two weeks apiece. 18 Q. Then after you completed the 19 machine gun specialist school, what did you 20 do? 21 A. Went to Lackland Air Force 22 Base, Florida. 23 Q. What did you do there?</p>
<p style="text-align: right;">Page 42</p> <p>1 basic training for the Air Force too? 2 A. No, sir. I'd have probably 3 got kicked out, probably. 4 Q. Why is that? 5 A. I can't fold clothes in 6 sixteen squares. 7 Q. Okay. So you did the MP 8 school in '83? 9 A. Yes, sir. 10 Q. Okay. How long did that take? 11 A. Eight weeks, I believe. 12 Q. What did you do after that 13 eight weeks? 14 A. Ground combat skills training. 15 Q. Where? 16 A. Camp Bullis, Texas. 17 Q. How do you spell that? 18 A. C-A-M-P B-U-L-L-I-S. 19 Q. How long did ground combat 20 skills training take? 21 A. I don't know. Around eight 22 weeks, I think. Six, eight weeks, I don't 23 know.</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Went to school a lot, stayed 2 in the woods a lot; got certified on a 3 radar, Intoxilizer, Breathalyzer; a lot of 4 exercises, deployment exercises in the 5 woods; and I worked a lot of gates. 6 Q. All right. When you say you 7 were in school, I assume that was learning 8 stuff like how to operate radar, how to 9 operate Breathalyzer? 10 A. Competitions. I shot 11 competitions for the Air Force. Combat 12 competitions, peace keeper challenge. 13 Q. Okay. And when you say you 14 were in the woods a lot, I assume that was 15 all training? 16 A. Yes, sir. 17 Q. Okay. What kind of training 18 were you doing? 19 A. Ground combat skills. 20 Q. Okay. 21 A. I had some -- I had prior Army 22 training, and the Air Force don't really 23 have a lot of combat training so they</p>

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<p>1 utilize on the other branches, Army and      2 Marine Corps combat courses. So that's why      3 I got stuck back in the woods.</p> <p>4 Q. When you say you worked a lot      5 of gates, does that mean doing security at      6 gates?</p> <p>7 A. Yes, sir.</p> <p>8 Q. I assume that's because you      9 were an MP?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And technically were -- At      12 what point did you become an MP, when you      13 finished MP school in '83?</p> <p>14 A. Yes, sir.</p> <p>15 Q. All this other stuff, the      16 ground combat skills training, machine gun      17 training, that was all to sort of further      18 your education as an MP?</p> <p>19 A. Not really.</p> <p>20 Q. Okay.</p> <p>21 A. Air Force is responsible for      22 their own perimeter security, in the States      23 and overseas. And being as I had prior Army</p>	<p>1 I did a lot of SWAT recalls, worked town      2 patrol some, team spirit, got stuck in the      3 woods a lot, again. And that was it.</p> <p>4 Q. What are SWAT recalls?</p> <p>5 A. SWAT team. I was on the      6 military SWAT team. They call it a special      7 reaction team, SRT. That's their version of      8 the SWAT team.</p> <p>9 Q. And what did you do?</p> <p>10 A. I was an entry man, first one      11 in the door.</p> <p>12 Q. That would be like if there      13 was a hostage or crisis --</p> <p>14 A. Hostage situation, bank      15 robbery, anything you call a civilian SWAT      16 team for, that's what we was for.</p> <p>17 Q. Okay. And town patrol, is      18 that what it sounds like?</p> <p>19 A. Yes, sir.</p> <p>20 Q. I assume you just made sure      21 that other members of the military weren't      22 causing trouble, things like that?</p> <p>23 A. You worked strictly at night</p>
Page 46	Page 48
<p>1 service, that's where I got stuck.</p> <p>2 Q. Why is that?</p> <p>3 A. Because they thought I was a      4 grunt, so I went back to being a grunt.</p> <p>5 Q. Okay. And how long were you      6 at Lackland?</p> <p>7 A. Approximately a year I      8 believe.</p> <p>9 Q. What year was that? Was that      10 in '83 or '84 or both?</p> <p>11 A. '84 to '85, I believe.</p> <p>12 February of '84 to maybe February of '85,      13 January of '85. I don't know.</p> <p>14 Q. After Lackland, where did you      15 go?</p> <p>16 A. Korea.</p> <p>17 Q. How long were you in Korea?</p> <p>18 A. Twelve months.</p> <p>19 Q. 1985 through '86?</p> <p>20 A. February of '85 to February of      21 '86.</p> <p>22 Q. What did you do in Korea?</p> <p>23 A. I was on the SWAT team there.</p>	<p>1 patrolling local towns, walking through the      2 bars, off-limits areas, make sure the GIs      3 wasn't in the off-limits areas, things of      4 that nature.</p> <p>5 Q. And you say you got stuck in      6 the woods some more, what were you doing,      7 training?</p> <p>8 A. Team spirit exercises and      9 training exercises.</p> <p>10 Q. What are team spirit      11 exercises?</p> <p>12 A. There was a big military      13 buildup in Korea around every February or      14 March to show military strength without      15 all-out war.</p> <p>16 Q. Okay. And that was the team      17 spirit exercise?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. What else did you do      20 while you were in Korea?</p> <p>21 A. Got married.</p> <p>22 Q. I guess that's a big deal?</p> <p>23 A. Yes, sir.</p>

12 (Pages 45 to 48)

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1 <b>Q.</b> When did you get married?	1 <b>Q.</b> How long were you at Bitburg?
2       A. 28 June '85.	2       A. Three, three and a half years.
3 <b>Q.</b> My wife would be happy if I	3       I don't know.
4       could reel off those dates as quick as you	4 <b>Q.</b> I assume your wife was
5       do.	5       traveling with you at Fort Lewis and
6       Did y'all get married actually	6       Bitburg?
7       in Korea?	7       A. Yes, sir.
8       A. Yes, sir.	8 <b>Q.</b> And had y'all had any kids by
9 <b>Q.</b> Anything else that you did	9       the time --
10      while you were in Korea?	10      A. My oldest daughter was born on
11      A. No. I don't know. That was	11      Fort Lewis, Madigan Army Medical Center.
12      years ago. Maybe, maybe not. I don't know.	12 <b>Q.</b> How do you spell Madigan?
13      I don't remember.	13      A. M-A-D-I-G-A-N. And my
14 <b>Q.</b> All right. You came back to	14      youngest daughter was born in Germany.
15      the states in '86?	15 <b>Q.</b> Okay. And when did you leave
16      A. Yes, sir. Fort Lewis,	16      Bitburg?
17      Washington.	17      A. August '92. August, September
18 <b>Q.</b> Fort Lewis?	18      '92, I'm not sure.
19      A. Yes. Tacoma, Washington.	19 <b>Q.</b> Now, around that time was
20 <b>Q.</b> That's an Air Force base?	20      during, I guess, the first Gulf War?
21      A. That's an Army post.	21      A. Yes, sir.
22 <b>Q.</b> How did you get put on an Army	22 <b>Q.</b> Were you deployed over in the
23      post?	23      Middle East during that period?
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1       A. Being an MP.	1       A. Yes, sir. Desert Storm.
2 <b>Q.</b> Okay. Did you serve as an MP	2       Desert Shield and Desert Storm. I was there
3       at Fort Lewis?	3       for both phases.
4       A. Yes, sir.	4 <b>Q.</b> What were you doing during
5 <b>Q.</b> How long?	5       Desert Storm?
6       A. Was on a SWAT team three	6       A. Combat patrols.
7       years. Was on their SWAT team, completed	7 <b>Q.</b> What did that involve?
8       Washington State SWAT School, their state	8       A. Security patrols, recons,
9       certified school.	9       raids, ambushes, just basic combat patrol.
10 <b>Q.</b> Those three years were 1986	10 <b>Q.</b> Where were you?
11      through when?	11      A. Turkey, northern Iraqi border.
12      A. '89.	12      We traveled from -- what's the name of that
13 <b>Q.</b> '89?	13      Air Force base? We traveled from some Air
14      A. March of '86 through May or	14      Force base over the Turkish border, did
15      June of '89.	15      patrols and back. I don't remember the name
16 <b>Q.</b> Okay.	16      of the base.
17      A. Germany.	17 <b>Q.</b> Okay. What about -- Were you
18 <b>Q.</b> You went to Germany after Fort	18      anywhere else during Desert Storm?
19      Lewis?	19      A. No, sir.
20      A. Yes, sir.	20 <b>Q.</b> Okay. What about during
21 <b>Q.</b> Where in Germany?	21      Desert Shield, what were you doing?
22      A. Bitburg Air Base,	22      A. Same thing. It all rolled one
23      B-I-T-B-U-R-G.	23      into the other.

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<p>1       <b>Q.</b> Same place?</p> <p>2       A. Only thing that changed for us 3 was the name.</p> <p>4       <b>Q.</b> Okay. How long were you over 5 in the Middle East?</p> <p>6       A. Little over three months.</p> <p>7       Three months, I don't know. It wasn't long.</p> <p>8       Air Force deploys three months. They're not 9 like the Army.</p> <p>10     <b>Q.</b> Okay. And then I assume you 11 came back to Bitburg?</p> <p>12     A. Yes, sir.</p> <p>13     <b>Q.</b> Okay. And then after Bitburg, 14 where did you go?</p> <p>15     A. Got out.</p> <p>16     <b>Q.</b> Got out of the Air Force?</p> <p>17     A. Yes, sir.</p> <p>18     <b>Q.</b> All right.</p> <p>19     A. Stayed out for a while and 20 joined the National Guard.</p> <p>21     <b>Q.</b> Do you remember when you -- 22 when you got out of the Air Force?</p> <p>23     A. 30 November '92. Nine years,</p>	<p>1       welding classes?</p> <p>2       A. Wallace.</p> <p>3       <b>Q.</b> Wallace. And you say it was a 4 couple of months before you joined the 5 National Guard?</p> <p>6       A. I don't know. May have been a 7 year. I don't know.</p> <p>8       <b>Q.</b> Okay.</p> <p>9       A. I don't know.</p> <p>10     <b>Q.</b> And you joined the Alabama 11 Army National Guard?</p> <p>12     A. Yes, sir. 2nd of the 117th 13 Field Artillery Battery.</p> <p>14     <b>Q.</b> And are you in a different 15 unit now?</p> <p>16     A. Yes, sir.</p> <p>17     <b>Q.</b> Okay.</p> <p>18     A. March 14th of '03 I was 19 involuntary transferred and extended to the 20 1165th MP Company. Deployed March 15th, 21 sent to Iraq for seems like forever; kept 22 getting extended, kept getting extended, I 23 had three extensions; then came back. I</p>
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<p>1       seven months, six days.</p> <p>2       <b>Q.</b> Okay. Now, did you get any 3 sort of retirement from the military?</p> <p>4       A. No, sir. I didn't -- I only 5 did -- I didn't do twenty years.</p> <p>6       <b>Q.</b> Okay.</p> <p>7       A. That's why I joined the 8 National Guard, finish it up and get my 9 retirement.</p> <p>10     <b>Q.</b> Okay. When did you join the 11 National Guard?</p> <p>12     A. I don't know. '93 or '94, I 13 don't know.</p> <p>14     <b>Q.</b> When you -- When you left 15 Bitburg and got out of the Air Force, did 16 you come back to Alabama?</p> <p>17     A. Yes, sir.</p> <p>18     <b>Q.</b> And is that when you started 19 working with Miller Mechanical?</p> <p>20     A. Yes, sir. After -- Well, I 21 signed up, took some welding classes first, 22 and then went to work for Miller Mechanical.</p> <p>23     <b>Q.</b> Where did you take your</p>	<p>1       stayed with that company.</p> <p>2       <b>Q.</b> Okay. How long were you in 3 Iraq during that time?</p> <p>4       A. Seventeen, eighteen months. I 5 don't know.</p> <p>6       <b>Q.</b> When did you return? I assume 7 it was in 2004?</p> <p>8       A. Oh, it was in 2004. Late 9 2004. I think it was around August.</p> <p>10     <b>Q.</b> Okay. And what did the -- You 11 said you were in the 117th Field Artillery 12 Battery, what was their -- what were they 13 there for? What did they do?</p> <p>14     A. It was field artillery unit. 15 I was 13 Echo. It's called fire directional 16 specialist.</p> <p>17     <b>Q.</b> Which means what?</p> <p>18     A. Which means I -- The forward 19 observer sends me coordinates of where he 20 wants the rounds to go from the guns.</p> <p>21     <b>Q.</b> Okay.</p> <p>22     A. I take the wind velocity, the 23 -- The forward observer is looking at it,</p>

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<p>1 the view, from where the guns would be      2 looking at it; I plot everything on a map,      3 and I send the message to the guns, fire      4 mission, get ready to fire, I tell them what      5 to fire, how to fire it, when to fire it, at      6 what elevation, and what angle.</p> <p>7 Q. What kind of guns are you      8 talking about?</p> <p>9 A. 105 Howitzers.</p> <p>10 Q. Okay. And was that -- Were      11 you pretty narrowly focused with the 117th?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay.</p> <p>14 A. What do you mean was I --</p> <p>15 Q. I mean, was that what you did?      16 Did you do anything else?</p> <p>17 A. No, sir. Well, they changed      18 to a chemical company and I didn't -- I      19 don't like chemicals.</p> <p>20 Q. When did they change to a      21 chemical company, after you had gone to      22 Iraq?</p> <p>23 A. No, sir. A few months before</p>	<p>1 Q. I'm assuming you did that.      2 A. We conducted patrols to our      3 assigned sector of town, Baghdad at first.      4 My responsibility was the southeast side of      5 Baghdad. Pretty good sector. I had a      6 police station called Billot Police Station.      7 We was training Iraqi police, and helped      8 them set up their force protection, teach      9 them how to patrol, teach them how to      10 policeman. At the same time we had to      11 conduct dismounted and mounted patrols of      12 the area, IED sweeps, raids, ambushes.      13 Basically you've got an MP on one side of      14 the fence, infantry on other side of the      15 fence, you combine them and you throw them      16 in.</p> <p>17 We got in all-out ambushes so      18 bad that I had drivers thrown out of the      19 vehicles, men dying. Went from there to a      20 town we called Little Fallujah, the name of      21 it was Latifiyah, thirty-five miles south of      22 Baghdad; we took it over from the Marine      23 Corps. And it got its name Little Fallujah</p>
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<p>1 I left. I don't remember.</p> <p>2 Q. Okay. And when you say you      3 were involuntary transferred in March of      4 2003, how did that happen?</p> <p>5 A. They called me up, told me to      6 pack my bags, I was leaving the next day and      7 go, and I did.</p> <p>8 I'm a soldier, I go where I'm      9 told to go, and fight where I'm told to      10 fight.</p> <p>11 DET 1, 1165th, Detachment 1.</p> <p>12 Q. Okay. What is the 1165th?</p> <p>13 A. Combat MP company.</p> <p>14 Q. Now, was that more consistent      15 with what you had done over in Korea and      16 with your prior training?</p> <p>17 A. Yes, sir. That's the reason I      18 got pulled. The state went through the      19 records, they didn't have enough people to      20 deploy, so I got pulled and sent with them.</p> <p>21 Q. Okay. Tell me what you did      22 when you got to Iraq.</p> <p>23 A. Besides trying to stay alive?</p>	<p>1 for a reason. If you was going down there,      2 you were going to make contact.</p> <p>3 And we stayed down there every      4 day. We didn't have -- An army in a combat      5 zone, there is no such thing as a day off.      6 You work, you patrol. We patrolled every      7 day. Got -- Ran across I don't even know      8 how many IEDs, ambushes, going in kicking in      9 doors, taking the Iraqis out, taking them to      10 jail.</p> <p>11 Train the Iraqi police so you      12 could fight them that night; train the Iraqi      13 army so you could fight them that night.</p> <p>14 Left Latifiyah, went to First      15 Armored Division. I was on Colonel Baker's      16 personal security detail.</p> <p>17 Q. Who is Colonel Baker?</p> <p>18 A. Second Combat Brigade Team,      19 First Armored Division, commander.</p> <p>20 Q. You were on his personal      21 security team?</p> <p>22 A. Yes, sir.</p> <p>23 Q. What did that involve?</p>

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<p>1       A. Everywhere he wanted to go, I      2 had to make sure he made it there safely. I      3 mean every day he -- He was a jam-up      4 commander: He took care of his soldiers and      5 he knew his soldiers.</p> <p>6       He traveled all over Iraq. He      7 had soldiers -- First Armored Division is a      8 big division, and he had a whole brigade      9 combat team, that's approximately      10 twenty-plus thousand soldiers. We'd go      11 anywhere up to a hundred miles from Baghdad.</p> <p>12      Q. Okay.</p> <p>13      A. His safety and welfare was my      14 responsibility. I'd make sure he stayed --      15 he was kept safe no matter where he went or      16 what he did.</p> <p>17      Q. And was that the last thing      18 you did when you were in Iraq?</p> <p>19      A. Yes, sir.</p> <p>20      Q. Okay. Since you -- Well, when      21 did you get back home from Iraq that second      22 time?</p> <p>23      A. Like I say, I think it was</p>	<p>1       A. Third platoon.      2       Q. What's the difference in pay      3 between E-6 and E-7?      4       A. I don't know yet.      5       Q. Okay. And when you -- When      6 you began back in 1983 at Lackland -- or at      7 Fort McClellan, what was your rank then?      8       A. E-1.      9       Q. E-1?      10      A. Bottom of the totem pole.      11      Q. And did you move from E-1 to      12 E-2?      13      A. Yeah.      14      Q. When was that?      15      A. I don't know.      16      Q. Do you remember when your      17 ranks changed, thinking back?      18      A. No. Back then it didn't      19 matter. Until you hit E-5 in the military,      20 it don't matter.      21      Q. All right. When did you hit      22 E-5?      23      A. Right before we went to Desert</p>
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<p>1 around August of '04. I'm not sure.</p> <p>2       Q. Okay. And beginning in --      3 Well, after August of '05, were you still a      4 member of the National Guard?</p> <p>5       A. Yes, sir. I still am.</p> <p>6       Q. Same company and everything?</p> <p>7       A. Yes, sir.</p> <p>8       Q. Okay. What is your current      9 rank?</p> <p>10      A. Staff sergeant, E-6. Until a      11 few months from now, and I'll be promoted to      12 an E-7.</p> <p>13      Q. What's the difference between      14 E-6 and E-7?</p> <p>15      A. Pay.</p> <p>16      Q. Pay?</p> <p>17      A. Title, job title. I'll be      18 taking over -- Right now I'm a fill-in      19 platoon sergeant. Any time we deploy, I'm      20 in charge of a platoon. But when I get that      21 promotion, it will be officially on paper,      22 I'll take official command of that platoon.</p> <p>23      Q. Okay. Which platoon?</p>	<p>1       Shield.      2       Q. And to progress from E-5 to      3 E-6, does it take training, recommendations      4 from superiors?      5       A. Takes training, takes certain      6 schools you have to have, takes      7 recommendations. There's a lot of      8 requirements you have to have. Your packet      9 goes up before the State board. I picked my      10 E-6 up in Iraq.      11      Q. When was that, the second time      12 or first time?      13      A. Second time. In Air Force you      14 don't get E-6 prior to ten years. It just      15 don't happen. Like I say, you got all these      16 E-9s on the State board looking at your      17 packet, your records, your recommendations,      18 whether you have the requirements. They      19 pick your record apart with a fine-toothed      20 comb.      21      Q. What have you done to go from      22 E-6 to E-7?      23      A. Same thing. This last school,</p>

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<p>1 month-long school I've been in, was the last      2 requirement I needed to make E-7. And      3 really it's up to the State and my unit. My      4 unit, if they don't think you're ready,      5 you're not going to get it.</p> <p>6 Q. What was the last school you      7 attended?</p> <p>8 A. That BNCOC, Basic      9 Noncommissioned Officers Course.</p> <p>10 Q. Okay. Let's talk about that.</p> <p>11 A. All right.</p> <p>12 Q. Tell me more about that. What      13 is it?</p> <p>14 A. Well, you've got to know the      15 military legal system, as far as Uniform      16 Code of Military Justice; you've got to have      17 managerial skills; you've got to have -- I      18 mean, you spend two weeks in the field, so      19 your combat skills is tested big time.</p> <p>20 Q. During the school?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And is it a month-long school?</p> <p>23 A. Well, I did two phases.</p>	<p>1 Q. Mr. Dees, going back on the      2 Record here. Just a couple other questions      3 about your military background.      4 You had mentioned that you      5 finished Phases II and III of BNCOC school.      6 How long did that take to finish II and III?      7 A. Four weeks. That's mostly      8 field training.      9 Q. Okay.      10 A. All my -- I spent -- Like I      11 said, when I was seventeen, I went through      12 basic training. I come from a military      13 family, I've been a -- military is all I've      14 ever known. I don't have one blemish. I've      15 got letters of certificates, letters of      16 appreciation from full bird colonels; I've      17 got achievement medals, accommodation      18 medals; put in for a bronze star in Iraq.      19 You can ask any of my soldiers, Sergeant      20 Barnes, my soldiers that work for me, my      21 seniors, any of them, they'll attest to my      22 military background and my career.</p> <p>23 Q. Who -- And you mentioned</p>
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<p>1 There's three phases for my MOS, and each      2 one is two weeks long. And I did the second      3 and third phrases back to back.</p> <p>4 Q. All right. What was the first      5 phase?</p> <p>6 A. First phase is all basic      7 military knowledge, as far as your admin      8 side.</p> <p>9 Q. When did you do that?</p> <p>10 A. Last year. Last September, I      11 believe.</p> <p>12 Q. All right. When did you do      13 Phase II?</p> <p>14 A. I don't know. A month ago.</p> <p>15 Q. Okay. And you still have to      16 do Phase III?</p> <p>17 A. No, sir. I did Phase II and      18 III back to back.</p> <p>19 Q. Okay.</p> <p>20 THE WITNESS: I need to take a      21 break if you don't mind.</p> <p>22 MR. JOHNSON: That's fine.      23 (Recess taken.)</p>	<p>1 Sergeant Barnes, is he one of your soldiers?      2 A. He's my operation NCO, he      3 works for me. Sergeant Richberg, Sergeant      4 Martin.</p> <p>5 Q. Give me those names. You had      6 Sergeant Barnes?</p> <p>7 A. Sergeant Franklin D. Barnes.</p> <p>8 Q. He's your NCO?</p> <p>9 A. He's my operations NCO. He      10 works for me. He's the one that sent the      11 letter to Hyundai.</p> <p>12 Q. Did you tell him to send it?      13 A. I went to the unit and      14 complained because I was being ordered to      15 give military orders for a drill weekend.      16 And Greg Prater knows -- He was in the      17 Guard, he knows you do not get military      18 orders for a drill weekend. I gave them a      19 schedule. Every time I hire on with an      20 employer, I tell them up front, I'm in the      21 National Guard, is this going to cause a      22 problem.</p> <p>23 Q. Did you tell Hyundai that up</p>

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<p>1 front?</p> <p>2 A. I told Hyundai that up front.</p> <p>3 I told International Paper, I told BE&amp;K, I</p> <p>4 told IP at Thorsby. I've always been up</p> <p>5 front. You can ask my soldiers, you can ask</p> <p>6 the people I -- Well, y'all's lawyer</p> <p>7 interviewed my coworkers, they told him the</p> <p>8 same thing. Leon Dees is honest. If he</p> <p>9 screws up he will tell you. I may not be</p> <p>10 perfect. I make mistakes just like the next</p> <p>11 guy. But if I make one, I'll tell you. You</p> <p>12 can go back to my employer at Thorsby, my</p> <p>13 maintenance manager Danny Wyatt, I crashed</p> <p>14 an eighty-five thousand dollar chipper. I</p> <p>15 didn't know it. I went home that day, I</p> <p>16 come back in, it was strewed all over</p> <p>17 everywhere. They didn't have a clue what</p> <p>18 happened to it. I knew what had happened.</p> <p>19 I went up and I told them. I thought I was</p> <p>20 fixing to get fired. But I told them</p> <p>21 exactly what happened.</p> <p>22 If I mess up, you can ask my</p> <p>23 soldiers or anybody, if I mess up, I'm the</p>	<p>1 is at Hyundai?</p> <p>2 A. He's a maintenance assistant</p> <p>3 -- maintenance manager or assistant</p> <p>4 maintenance of the -- I'm not sure which</p> <p>5 department. He's on the electrical side.</p> <p>6 I'm not sure.</p> <p>7 Q. Do you know if he was in the</p> <p>8 military?</p> <p>9 A. Danny Blue?</p> <p>10 Q. Uh-huh.</p> <p>11 A. I don't think so. I'm not</p> <p>12 sure, but I don't think so.</p> <p>13 Q. That's fine. I don't know him</p> <p>14 at all.</p> <p>15 But you told him specifically</p> <p>16 you were in the Guard?</p> <p>17 A. Yes, sir, I did.</p> <p>18 Q. And did he indicate that would</p> <p>19 be a problem?</p> <p>20 A. No, sir.</p> <p>21 Q. Did he indicate that anybody</p> <p>22 at Hyundai would have a problem with that?</p> <p>23 A. No, sir.</p>
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<p>1 first one to admit it.</p> <p>2 Q. You mentioned something that</p> <p>3 was interesting to me. You said when you</p> <p>4 got hired on by Hyundai, as with other</p> <p>5 employers, you told them you were a member</p> <p>6 of the National Guard.</p> <p>7 A. I gave Greg Prater my yearly</p> <p>8 schedule, year in advance we get our</p> <p>9 schedules, every October.</p> <p>10 Q. Let me make sure you</p> <p>11 understand my question. I assume what</p> <p>12 you're talking about with Greg Prater, he</p> <p>13 wasn't the one that hired you, was he?</p> <p>14 A. Danny Blue interviewed me.</p> <p>15 And I told Danny Blue I was in the Guard. I</p> <p>16 told him I was in the National Guard, was an</p> <p>17 active member in the Guard and have a</p> <p>18 commitment to the Guard.</p> <p>19 Q. And was Danny Blue -- Who was</p> <p>20 he? Was he somebody that interviewed you</p> <p>21 during the hiring process?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And do you know what his role</p>	<p>1 Q. Did he say anything about</p> <p>2 whether Hyundai has policies that support</p> <p>3 members of the Guard?</p> <p>4 A. Their handbook states that.</p> <p>5 You've got a copy of their handbook, and it</p> <p>6 states their military policy.</p> <p>7 Q. And you've got a copy of their</p> <p>8 handbook?</p> <p>9 A. Yes, sir.</p> <p>10 Q. When you got a copy of the</p> <p>11 handbook, did they get you to sign an</p> <p>12 acknowledgement saying you received it?</p> <p>13 A. I don't remember. I don't</p> <p>14 know. I may have, I may not. I don't know.</p> <p>15 (Whereupon, Defendant's</p> <p>16 Exhibit No. 2 was marked</p> <p>17 for identification.)</p> <p>18 Q. Mr. Dees, this is an exhibit</p> <p>19 we've marked as Exhibit Number 2. Do you</p> <p>20 recognize that document?</p> <p>21 A. Let me read it and make sure.</p> <p>22 This is it.</p> <p>23 Q. And I know that -- It appears</p>

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<p>1 the date on that is January 10th of '06;      2 correct?      3 A. Yes, sir. 10 January '06.      4 Q. And is that your signature      5 down there at the bottom?      6 A. Yes, sir.      7 Q. And my assumption is, since      8 it's from January 10th, of '06, this wasn't      9 signed at the time you initially hired on;      10 correct? You hired on before '06; right?      11 A. Yes, sir.      12 Q. Do you know -- Do you recall      13 if you received a handbook at the time you      14 were hired and then they issued another      15 handbook later?      16 A. No, sir. That was it. But      17 why was the '06 -- What was the original      18 number? Looks like 10 January '07 and then      19 the '06 is highlighted.      20 Q. Okay. Do you know if that's      21 your handwriting or do you remember doing      22 that?      23 A. I know -- I know they had a</p>	<p>1 Q. Your clock number?      2 A. Old clock number.      3 Q. Okay. And would it be fair to      4 state that possibly prior to that, you had      5 received a copy of the handbook?      6 A. I received a copy of the      7 handbook when I hired on.      8 Q. Okay.      9 A. But like I said, this here, if      10 you look in the back of that handbook, or      11 the front, one, it's got this -- a statement      12 similar to this, or something in it --      13 Q. Okay.      14 A. -- and you're supposed to sign      15 it. And none of us signed it.      16 Q. Okay.      17 A. That's why they came out with      18 these.      19 Q. Do you remember reading the      20 handbook when you first got hired on?      21 A. All the way through?      22 Q. Sure.      23 A. No. Not all the way through.</p>
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<p>1 big push for everybody to sign that there,      2 because nobody had actually signed the --      3 They had a form in the handbook to sign, but      4 nobody had actually signed it.      5 Q. Do you remember when they sent      6 this -- sent the acknowledgement around to      7 get people to sign it?      8 A. To be honest, the exact date      9 or time, no.      10 Q. Okay.      11 A. But, mine says 10 January '07,      12 then the 7 is crossed out and the 6 is      13 highlighted.      14 Q. Okay. And you don't recall      15 whether you did that or not?      16 A. No, sir. Well, normally when      17 I do something like that, from my military      18 background, I initial it.      19 Q. Okay. But I assume that's      20 your signature?      21 A. That's my signature.      22 Q. Okay.      23 A. And that's my clock number.</p>	<p>1 I mean I read bits and pieces and parts here      2 and there, yes, sir.      3 Q. All right. Do you remember      4 reading the part about military leaves or      5 anything related to military training?      6 A. Yes, sir, it is.      7 Q. Do you remember what it says?      8 A. It says that -- that you don't      9 have to use your vacation time in lieu of      10 your military training. Because that was a      11 big issue.      12 Q. Okay. Was his name Danny      13 Blue?      14 A. Yes, sir.      15 Q. Okay. Did he say anything      16 else about Hyundai supporting members of the      17 military services or Guard with leaves?      18 A. He said my being in the Guard      19 wouldn't have anything to do with me getting      20 hired.      21 Q. Okay. And you did get hired?      22 A. Yes, sir.      23 Q. Okay.</p>

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<p>1       A. But like I said, my military 2 career, they can -- they can look at 3 anything that they want to or talk to 4 anybody in my unit if they want to, I'd be 5 glad to let them.</p> <p>6       <b>Q.</b> My assumption is, your 7 attorneys have given us a number of 8 commendations and awards and things that 9 relate to your military service.</p> <p>10      A. Yes, sir. I've got 11 achievement metals out the ying-yang, 12 accommodation metals.</p> <p>13      <b>Q.</b> I'm assuming that you've 14 provided to your attorneys all of those that 15 are in your possession?</p> <p>16      A. Yes, sir.</p> <p>17      <b>Q.</b> Okay. Based on what you've 18 said and based on my review of your 19 accommodations and awards, my assumption is 20 you were never disciplined for anything 21 while you were in the military?</p> <p>22      A. No, sir. I had an outstanding 23 military -- I even took honor grad from a</p>	<p>1 feel we have the need to know. There's 2 three companies from my battalion going, 3 217th, 214th, 1165th.</p> <p>4       <b>Q.</b> And in addition to not being 5 disciplined while you were in the military, 6 I assume you were never court martialed for 7 anything?</p> <p>8       A. No, sir. No Article 15, no 9 letters of counseling, no letters of 10 reprimand. I come -- I know what my duty 11 is, and, like I said, I fulfill that duty. 12 I take care of my soldiers and my soldiers 13 take care of me. That's all I've ever 14 known, that's what I like, and I'm good at 15 it.</p> <p>16      <b>Q.</b> Now, earlier you used a term I 17 want to clear up, you said MOS, that stands 18 for Military Occupational Skill; correct?</p> <p>19      A. Yes, sir. I don't remember 20 using it, but that's what it stands for.</p> <p>21      <b>Q.</b> I think you used it. 22      Your military occupational 23 skill, would that be military police?</p>
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<p>1 Marine Corps school.</p> <p>2       <b>Q.</b> Were you ever disciplined for 3 anything while you were with the National 4 Guard?</p> <p>5       A. No, sir. I know my job and 6 I'm very, very proud of the job I do, and 7 proud of the uniform I wear.</p> <p>8       <b>Q.</b> Okay.</p> <p>9       A. I've served my country two 10 different tours, combat tours, and I'm going 11 back again next year, and I'm going back 12 willingly.</p> <p>13      <b>Q.</b> Going back where?</p> <p>14      A. Iraq.</p> <p>15      <b>Q.</b> Do you know what you're going 16 to do when you go?</p> <p>17      A. Yes, sir, I do.</p> <p>18      <b>Q.</b> What are you going to do?</p> <p>19      A. Convoy security. Most 20 dangerous job you can have over there right 21 now.</p> <p>22      <b>Q.</b> Okay. When are you leaving?</p> <p>23      A. We won't know that until they</p>	<p>1       A. Yes, sir. That's one of them.</p> <p>2       <b>Q.</b> I don't know the answer to 3 this: Can people have more than one MOS?</p> <p>4       A. Yes, sir.</p> <p>5       <b>Q.</b> And do you have more than one?</p> <p>6       A. Yes, sir.</p> <p>7       <b>Q.</b> Okay. Tell me what yours are?</p> <p>8       A. 13 Echo, field artillery, fire 9 direction control, FDC, fire direction 10 specialist. And 74 Delta. I ain't got a 11 clue what that is. It's in my records, it's 12 either chemical or signal one, I don't know.</p> <p>13      <b>Q.</b> 13 Echo is that military 14 police?</p> <p>15      A. No, sir. That's artillery.</p> <p>16      <b>Q.</b> Okay. And is that all the 17 MOS's that you're aware of?</p> <p>18      A. Yes, sir.</p> <p>19      <b>Q.</b> Okay. Have you ever been 20 arrested for anything?</p> <p>21      A. No, sir.</p> <p>22      <b>Q.</b> Have you ever filed a worker's 23 compensation claim?</p>

20 (Pages 77 to 80)

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<p>1 A. No, sir.</p> <p>2 Q. Have you ever filed a Social Security claim?</p> <p>3 A. No, sir.</p> <p>4 Q. Are you receiving any sort of payments now for any sort of disability, illness, short-term disability, long-term disability, anything like that?</p> <p>5 A. When I came back from Iraq, I had to have my shoulder operated where I messed it up in Iraq. I got, I think it was, short-term disability through the IP, I believe. I'm not sure how it worked. They took care of everything.</p> <p>6 Q. All right. What kind of shoulder surgery did you have? Did you have a rotator cuff injury?</p> <p>7 A. Rotator cuff, lost the lining in my shoulders, muscles. Something to do with the bone, I don't know.</p> <p>8 Q. What did you have done, do you know?</p> <p>9 A. The muscles was completely</p>	<p>1 Q. Okay. Is your shoulder back where you can work fully at this point?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Are you having any ongoing problems that prevent you from working in any way, shape, or form?</p> <p>4 A. No, sir.</p> <p>5 Q. Now, prior to today, to get ready for this deposition, did you review any documents?</p> <p>6 A. Just what Hyundai sent me, I went over my military records.</p> <p>7 Q. Okay. Anything -- When you say just what Hyundai sent you, what was that?</p> <p>8 A. I don't remember. Benefits packages, hire-on package, junk like that.</p> <p>9 Q. Okay. Are you talking about stuff we sent to your lawyer?</p> <p>10 A. Yeah. Some statements from Will Ware, I think.</p> <p>11 Q. Okay.</p> <p>12 A. Mostly it was all benefits,</p>
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<p>1 torn off from the front or the back, one, 2 half way on the other side. Like I say, I 3 lost the lining in my shoulder. Something 4 else, I don't remember what the doc said. 5 He said it was screwed up.</p> <p>6 Q. Where did you have the surgery done?</p> <p>7 A. Birmingham.</p> <p>8 Q. Birmingham?</p> <p>9 A. Yes, sir. I ain't letting the 10 Army cut on me no more. They've done it two 11 or three times, and every time it ain't gone 12 good.</p> <p>13 Q. Okay. What were the other two or three times for?</p> <p>14 A. When I was in Baghdad, they 15 cut me open in a make-shift hospital in the 16 middle of Baghdad to take my appendix out. 17 And I woke up with industrial staples in my 18 gut that I had to take out. They cut my 19 wisdom teeth out up at Fort Lewis, and I 20 still don't have the feeling in my jaw. So 21 I wasn't going for a third.</p>	<p>1 and hire-on package, and stuff from my 2 previous employers.</p> <p>3 Q. Okay. Have you reviewed 4 anything else?</p> <p>5 A. No, sir.</p> <p>6 Q. Did you -- And, again, I'm not 7 -- I'm not going to ask you anything that 8 you talked to your lawyers about or asked 9 your lawyers or anything like that.</p> <p>10 But other than your lawyers, 11 did you speak to anybody getting ready for 12 the depo?</p> <p>13 A. No, sir.</p> <p>14 Q. Did you review the complaint that was filed?</p> <p>15 A. That my -- What do you mean? 16 Which -- That my lawyers filed?</p> <p>17 Q. Yes, sir. To start the lawsuit, your lawyers filed a summons and complaint at the courthouse.</p> <p>18 A. Yes, sir.</p> <p>19 Q. Did you look at it getting 20 ready for today?</p>

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<p>1       A. I looked at it awhile back. I 2 don't remember. I've looked at it, yes, 3 sir.</p> <p>4       <b>Q. But did you look at it to get</b> 5 <b>ready for today?</b></p> <p>6       A. I don't remember, to be 7 honest.</p> <p>8       <b>Q. Okay.</b></p> <p>9       A. I talked to Bob yesterday 10 about some stuff, but I don't remember. To 11 be honest, I don't remember.</p> <p>12      <b>Q. Okay. And when you say you</b> 13 <b>talked to Bob, are you referring to</b> 14 <b>Mr. Hall, who is here?</b></p> <p>15      A. Hall, yes, sir.</p> <p>16      <b>Q. Okay. And what did y'all talk</b> 17 <b>about?</b></p> <p>18      A. The paperwork that he had 19 drawn up, gone over, my records.</p> <p>20      <b>Q. Did you review his expert</b> 21 <b>report with him?</b></p> <p>22      A. Yes, sir.</p> <p>23      <b>Q. Okay. Was there anything in</b></p>	<p>1 Basically, I lived there more than I did at 2 home.</p> <p>3       <b>Q. Okay. Which -- I mean, when</b> 4 <b>was the last time you spoke to one of your</b> 5 <b>coworkers?</b></p> <p>6       A. Bornberg called me yesterday 7 evening I believe. Yesterday sometime.</p> <p>8       <b>Q. Who was that?</b></p> <p>9       A. Mark Bornberg.</p> <p>10      <b>Q. What did he talk about?</b></p> <p>11      A. Just letting me know he was 12 going to Maplesville to cut a tree down for 13 one of my friends.</p> <p>14      <b>Q. Did y'all talk about the</b> 15 <b>deposition or the lawsuit at all?</b></p> <p>16      A. No, sir. He asked how it was 17 going, I said I don't know yet.</p> <p>18      <b>Q. Have you talked to any of your</b> 19 <b>former coworkers about the lawsuit or this</b> 20 <b>deposition?</b></p> <p>21      A. They -- Some lawyers from 22 South Carolina interviewed -- had them all 23 at work, was going to interview them all one</p>
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<p>1 <b>his expert report that you disagreed with?</b></p> <p>2       A. No, sir. I mean, I ain't no 3 accountant or no lawyer.</p> <p>4       <b>Q. Okay.</b></p> <p>5       A. So did I understand 6 everything? No, sir.</p> <p>7       <b>Q. All right. Was there anything</b> 8 <b>in his expert report that you asked him to</b> 9 <b>change in any way, shape, or form?</b></p> <p>10      A. I don't believe so.</p> <p>11      <b>Q. Okay. Other than reviewing</b> 12 <b>the report that he drafted, what else did</b> 13 <b>you do?</b></p> <p>14      A. That was about it.</p> <p>15      <b>Q. When was that?</b></p> <p>16      A. I looked at Mr. Hall's report 17 yesterday.</p> <p>18      <b>Q. Okay. Did you speak with</b> 19 <b>anybody else that worked for Hyundai getting</b> 20 <b>ready -- prior to today getting ready?</b></p> <p>21      A. No, sir. I mean, my 22 coworkers, they called me. I mean, we're 23 friends. We was tight, we was real close.</p>	<p>1 night. And he interviewed three of them and 2 said he didn't want to talk to none of the 3 rest of them is the only thing they told me.</p> <p>4       <b>Q. Who said that?</b></p> <p>5       A. Drake Barefoot.</p> <p>6       <b>Q. And he said what now?</b></p> <p>7       A. Said that a lawyer told him 8 that they didn't have to talk to him, but 9 he'd like to ask them some questions. And 10 he started interviewing them, and says he 11 interviewed the third one and come out and 12 told the rest of them to leave, that he 13 wasn't getting what he wanted.</p> <p>14      <b>Q. Okay. Who are the three that</b> 15 <b>you think were interviewed?</b></p> <p>16      A. I don't remember. Drake told 17 me the names, but I don't remember who it 18 was.</p> <p>19      <b>Q. Okay. And that's Drake</b> 20 <b>Barefoot?</b></p> <p>21      A. Yes, sir.</p> <p>22      <b>Q. Okay. Did Drake tell you</b> 23 <b>anything else about the interview?</b></p>

22 (Pages 85 to 88)

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<p>1       A. No, sir. I didn't ask him 2 nothing else.</p> <p>3       <b>Q. Okay.</b></p> <p>4       A. I didn't ask him that, but --</p> <p>5       <b>Q. Did you talk to anybody else 6 about an interview?</b></p> <p>7       A. No, sir.</p> <p>8       <b>Q. Other than Drake, do you know 9 anybody that gave an interview?</b></p> <p>10      A. Like I said, Drake came and 11 told me who all he talked to, but I don't 12 remember who it was. That's been a while -- 13 few months ago, I guess.</p> <p>14      <b>Q. Okay.</b></p> <p>15      A. Like I said, we was good 16 friends. Most of the time we just call each 17 other to pick on each other.</p> <p>18      <b>Q. Okay. And other than that 19 discussion, after those interviews, have you 20 had any other talks with Drake about the 21 lawsuit or this deposition or anything like 22 that?</b></p> <p>23      A. No. Like I said, they'll call</p>	<p>1 this -- her Korean culture, she just -- she 2 was nervous.</p> <p>3       <b>Q. Okay.</b></p> <p>4       A. That was it.</p> <p>5       <b>Q. Okay.</b></p> <p>6       A. She's scared of the Koreans.</p> <p>7       <b>Q. Okay. Why is that?</b></p> <p>8       A. I mean, in Korea you don't 9 buck the system at all. Korean civilian 10 life is like military life, you don't -- you 11 don't go up against the system at all. If 12 they tell you to jump off a bridge, you jump 13 off a bridge and thank them half way down.</p> <p>14      <b>Q. Okay. Other than your wife, 15 did you speak to any other family members 16 getting ready for the deposition?</b></p> <p>17      A. No, sir. I ain't had time.</p> <p>18      I've been up at Fort McClellan for a month, 19 I came home Saturday. And she's always got 20 something for me to do around the house, so, 21 no.</p> <p>22      <b>Q. I understand that. 23 Either in getting ready for</b></p>
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<p>1 and ask, and I -- Like I said, I ain't no 2 lawyer and I don't know, so I just -- that's 3 the same thing I tell them, I don't know.</p> <p>4       <b>Q. Okay. Have you talked to 5 anybody else at Hyundai, other than your 6 coworkers about this lawsuit?</b></p> <p>7       A. No, sir.</p> <p>8       <b>Q. Or about this deposition?</b></p> <p>9       A. No, sir.</p> <p>10      <b>Q. I assume you talked to your 11 wife before coming here today?</b></p> <p>12      A. I live with her, yes, sir.</p> <p>13      <b>Q. Well, did you talk to her -- 14 Again, remember I told you earlier some of 15 my questions don't make sense. 16       That made sense, but it wasn't 17 the right question. Did you talk to her 18 about this lawsuit or about your deposition 19 in preparation for today?</b></p> <p>20      A. I reckon, yes, sir.</p> <p>21      <b>Q. Okay. Do you remember what 22 y'all talked about?</b></p> <p>23      A. No. I mean, she just said</p>	<p>1 <b>the deposition or at any time during the 2 lawsuit, have you kept a journal or put 3 anything down in writing that might have 4 information relevant to the lawsuit?</b></p> <p>5       A. Have I kept a journal? No, 6 sir. I kept notes when I was at Hyundai, 7 and they were taken.</p> <p>8       <b>Q. When you say you kept notes, 9 what were your notes like?</b></p> <p>10      A. I spent several years in the 11 military, I kept meticulous notes: dates, 12 times, places, specific comments.</p> <p>13      <b>Q. What did you keep them on?</b></p> <p>14      A. Just blank copy paper.</p> <p>15      <b>Q. Blank copy paper?</b></p> <p>16      A. Yes, sir.</p> <p>17      <b>Q. What color copy paper, plain 18 white?</b></p> <p>19      A. Plain white paper.</p> <p>20      <b>Q. Where did the blank copy paper 21 come from?</b></p> <p>22      A. Probably out of the copy 23 machine there.</p>

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<p>1       <b>Q.</b> At work?</p> <p>2       A. Yes, sir. I mean, I don't</p> <p>3 know. They gave us tablets to keep notes</p> <p>4 on, to write daily logs on. So I don't know</p> <p>5 where I got it from.</p> <p>6       <b>Q.</b> Did you ever keep anything on</p> <p>7 a journal or a daily log?</p> <p>8       A. We had to fill out daily</p> <p>9 reports there at the plant, yes.</p> <p>10     <b>Q.</b> Okay. And what did you do</p> <p>11 with those reports?</p> <p>12     A. I turned mine in every day,</p> <p>13 except for one day when I forgot to turn one</p> <p>14 in and got in trouble for it.</p> <p>15     <b>Q.</b> Who did you turn it in to?</p> <p>16     A. We'd turn them in. There was</p> <p>17 a box in the office we had to turn them in</p> <p>18 to.</p> <p>19     <b>Q.</b> When you say the office, is</p> <p>20 that like a maintenance office?</p> <p>21     A. Yes, sir. Every section has</p> <p>22 their own maintenance office.</p> <p>23     <b>Q.</b> Okay. Did any of your</p>	<p>1       <b>Q.</b> But other than you telling</p> <p>2 them that you had notes, did they ever --</p> <p>3       A. Yeah. I'd pull them out of my</p> <p>4 pocket, and they asked me, you got your</p> <p>5 notes? Yeah.</p> <p>6       <b>Q.</b> And were these notes related</p> <p>7 to issues you were having with Greg Prater</p> <p>8 or somebody else at the plant?</p> <p>9       A. Issues I was having period</p> <p>10 regarding my military service.</p> <p>11     <b>Q.</b> Okay. Did you ever take your</p> <p>12 notes home?</p> <p>13     A. Yes, sir. I'd take them home</p> <p>14 and bring them back -- they'd stay with me</p> <p>15 or either I'd lock them up in my locker.</p> <p>16     <b>Q.</b> And you kept them in your</p> <p>17 pocket?</p> <p>18     A. Yes, sir.</p> <p>19     <b>Q.</b> Did you take any notes home</p> <p>20 that are still at your home?</p> <p>21     A. No, sir. When I left, my</p> <p>22 jacket was locked up in my locker, and I</p> <p>23 wasn't allowed to even go to my locker. I</p>
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<p>1 coworkers ever see you writing on copy paper</p> <p>2 or writing in a journal about what was going</p> <p>3 on at work?</p> <p>4       A. Yes, sir.</p> <p>5       <b>Q.</b> Okay.</p> <p>6       A. I mean, they knew I had notes.</p> <p>7       <b>Q.</b> Who were they? Which ones?</p> <p>8       A. All of them. Everybody on my</p> <p>9 shift and the other shift.</p> <p>10     <b>Q.</b> All right. Did they ever look</p> <p>11 at them?</p> <p>12     A. No, I don't reckon so.</p> <p>13     <b>Q.</b> You don't remember ever</p> <p>14 showing your notes to anybody?</p> <p>15     A. I don't reckon. No. No.</p> <p>16     <b>Q.</b> When you say they all knew</p> <p>17 that you had them, what makes you say that?</p> <p>18     A. I mean, I told them.</p> <p>19     <b>Q.</b> Okay. Other than you telling</p> <p>20 them --</p> <p>21     A. They seen that -- I kept them</p> <p>22 in my jacket pocket. Wherever I went, they</p> <p>23 went.</p>	<p>1 was took out of there like a prisoner, like</p> <p>2 a criminal. Prater went and got my jacket</p> <p>3 and brought it back to me, and there was no</p> <p>4 notes in the pocket.</p> <p>5       MR. SPORT: For the Record,</p> <p>6 Matt, we've asked y'all for those notes and</p> <p>7 haven't gotten them.</p> <p>8       A. That's like this box here, I</p> <p>9 don't know -- My locker stayed open,</p> <p>10 unlocked, for two months after I was fired.</p> <p>11 Then all of a sudden two months later they</p> <p>12 come in and throw a lock on it for another</p> <p>13 couple of months. Then they -- all of a</p> <p>14 sudden they take the lock off again.</p> <p>15     <b>Q.</b> You say that it was unlocked</p> <p>16 for two months?</p> <p>17     A. Yeah.</p> <p>18     <b>Q.</b> I assume you didn't go back</p> <p>19 there to see it personally?</p> <p>20     A. No.</p> <p>21     <b>Q.</b> What makes you think it was</p> <p>22 unlocked for two months?</p> <p>23     A. Bornberg told me. I asked him</p>

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<p>1 to look for my notes, and he said there's      2 nothing -- he said Kevin Hughes and Prater      3 had gone all through my locker.</p> <p>4 Q. Do you know -- Did Bornberg go      5 there the day you were terminated or the day      6 after?</p> <p>7 A. It was the day after. That      8 night I got terminated, I'd been at work an      9 hour -- I drove fifty-something miles to      10 work -- to work for an hour, didn't have a      11 clue I was being fired; got security guards      12 coming in with me, around my friends,      13 telling you, let's go. Like I said, I was      14 drug out like a criminal, and then that      15 lady, Wendy Warner, she was cold, short,      16 treated me like a piece of trash.</p> <p>17 Q. Okay.</p> <p>18 A. I've never been fired from a      19 job in my life.</p> <p>20 Q. And we're going to talk more      21 about Wendy Warner before the day is out.      22 The notes that you're talking about, how      23 much information was it? How many pages?</p>	<p>1 up there in his office. He said however      2 Prater wants to run his shop, that's what      3 he's going to do and I'm going to back him      4 up.</p> <p>5 Q. Is that all that Applegate had      6 to say?</p> <p>7 A. Basically, yeah. Chewed me      8 out.</p> <p>9 Q. Chewed you out how?</p> <p>10 A. Told me that I needed to get      11 my act together. I mean, I got Guard duty,      12 I have a military obligation. I have to go      13 to that obligation. I'm going to go to that      14 obligation. Federal law protects me under      15 that obligation, but yet I'm still being      16 told that if I don't go to Guard duty and      17 don't show up to work, I'm going to be wrote      18 up for missing work.</p> <p>19 Q. When Applegate said "get your      20 act together," what was he referring to?</p> <p>21 A. I have no idea. I didn't ask      22 him.</p> <p>23 Q. Did John Applegate ever ask to</p>
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<p>1 One page, more pages?</p> <p>2 A. No. No. There was several      3 pages.</p> <p>4 Q. Several being what, two,      5 three?</p> <p>6 A. Probably three or four.</p> <p>7 Q. So.</p> <p>8 A. My military career, when it      9 started, I figured it would drop after my      10 unit sent the letter, but, no.</p> <p>11 Q. Okay.</p> <p>12 A. But it wasn't just Prater, it      13 was Applegate, it was HR. It wasn't one      14 individual, it was company.</p> <p>15 Q. What was Applegate doing?</p> <p>16 A. He basically told me -- I      17 asked him one time, I said: What about the      18 letter my unit sent? He said: Well, I      19 ain't worried about that letter; He said,      20 whatever Prater says, I'm going to back him      21 up. I've never heard Prater say anything      22 out of the way, which he was never around      23 Prater when Prater was in our shop; he sat</p>	<p>1 see any military orders of yours?</p> <p>2 A. No. He just told me that he      3 backed Prater up on whatever he said.</p> <p>4 Q. Okay.</p> <p>5 A. HR did, yeah.</p> <p>6 Well, I take that back. There      7 was a little girl from HR, her name was      8 Keisha, I don't know what her last name is.      9 This was after my unit had sent the letter.      10 Said that -- She come out quoting something      11 from the ESGR regulation and then saying      12 that I had to provide orders so many days      13 prior to, or something, I don't remember.      14 And I said no, the regulation states that I      15 can be deployed up to three months on a      16 verbal order.</p> <p>17 And I said: Y'all have my      18 schedule a year advance. You've had it.      19 They got my updated version, which he turned      20 in. It got so bad that when I -- like, the      21 -- I went to BNCOC Phase I, I believe in      22 September, and I was deployed in support of      23 Katrina, I had to carry my orders to human</p>

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<p>1 resources section myself, which y'all got      2 the papers somewhere in there where the HR      3 person had to sign off on me bringing my      4 orders up there, said manager not available,      5 because Prater wouldn't turn my orders in.      6 And you got Applegate and HR backing him up      7 on it, I'm against the wall. That's why I      8 kept notes.</p> <p>9       <b>Q. I want to carve out Greg</b>      10 <b>Prater for just a moment.</b></p> <p>11       <b>In terms of Mr. Applegate, how</b>      12 <b>many discussions did you have with him that</b>      13 <b>had anything to do with your military</b>      14 <b>service?</b></p> <p>15       A. Two or three.</p> <p>16       <b>Q. Two or three?</b></p> <p>17       A. I mean, every time I -- It was      18 several times, even after my unit sent the      19 letter. And he admitted to the letter being      20 there.</p> <p>21       <b>Q. All right. Do you think it</b>      22 <b>was more than two or three or just two or</b>      23 <b>three?</b></p>	<p>1 it?      2       A. No.      3       <b>Q. How long before you were</b>      4 <b>actually terminated did your discussions</b>      5 <b>with Applegate take place? Was it back in</b>      6 <b>the fall?</b></p> <p>7       A. It started around the fall.      8 And it went on up through December and      9 January.</p> <p>10       <b>Q. December and January?</b></p> <p>11       A. Uh-huh.</p> <p>12       <b>Q. Did you have any problems</b>      13 <b>after January?</b></p> <p>14       A. With -- Yeah, I mean --</p> <p>15       <b>Q. With Applegate, I'm sorry.</b></p> <p>16       A. With Applegate, yeah.</p> <p>17       <b>Q. Okay. So it went past</b>      18 <b>December and January, is what you're telling</b>      19 <b>me?</b></p> <p>20       A. I believe it was in January, I      21 don't know. I don't remember the dates to      22 be exact. Like I say, they've got my notes,      23 that's got everything on it. They've got</p>
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<p>1       A. I don't know. Like I said, it      2 was ongoing several, several months.</p> <p>3       <b>Q. All right. So over a period</b>      4 <b>of several months, you had several</b>      5 <b>discussions with him?</b></p> <p>6       A. Uh-huh. And HR.</p> <p>7       <b>Q. But I'm asking about Applegate</b>      8 <b>for now.</b></p> <p>9       A. Okay.</p> <p>10       <b>Q. During the discussions that</b>      11 <b>you had with Applegate, did he ever demand</b>      12 <b>to see any orders of yours?</b></p> <p>13       A. I don't -- I don't think so.      14 I don't know. I don't remember.</p> <p>15       <b>Q. Okay. You --</b></p> <p>16       A. He said I needed to get my      17 mind together and focus on the plant,      18 instead of -- How did he phrase it?</p> <p>19       He came up with some elaborate      20 word and said I needed to basically just      21 don't worry about my Guard duty and stay at      22 work. I don't remember how he phrased it.</p> <p>23       <b>Q. Do you remember when he said</b></p>	<p>1 them somewhere. I didn't bring them out of      2 the plant.</p> <p>3       Prater is the one that brought      4 my jacket to me, they was in the pocket. He      5 had keys to my locker. I had security      6 guards on me, I couldn't go back and get my      7 personal stuff. I had to give Prater my      8 keys to my locker and it stayed unlocked.      9 He unlocked it and it stayed unlocked. And      10 I was pushed out with security guards in      11 front of everybody, like I said, like a      12 common criminal.</p> <p>13       <b>Q. During the time that you were</b>      14 <b>there, what kind of lock was on your locker?</b></p> <p>15       A. I don't remember. I think it      16 was just a little red Master lock.</p> <p>17       <b>Q. Was it a keyed lock or</b>      18 <b>combination?</b></p> <p>19       A. It was a keyed lock. I had to      20 give Prater my keys to get in it.</p> <p>21       <b>Q. Okay.</b></p> <p>22       A. He's the one who brought my      23 stuff to me. And all he brought was my</p>

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<p>1 jacket and a little MP3 player that they had      2 given us for Christmas.</p> <p>3       <b>Q. Was he with anybody else?</b></p> <p>4       A. No. I mean, I had to -- Like      5 I said, I had to stay there with the      6 security guards.</p> <p>7       <b>Q. Okay.</b></p> <p>8       A. And Applegate may have walked      9 around with him. I don't know, I was so      10 upset. I didn't --</p> <p>11      <b>Q. When you came to work that      12 morning --</b></p> <p>13      A. That night.</p> <p>14      <b>Q. I mean that night. -- had you      15 gone to your locker?</b></p> <p>16      A. Yes, sir. I mean that's where      17 my tools was at. I had to go to my locker,      18 get my tools out. And that's the first      19 thing we did was go get our tools, go out on      20 the floor and get back briefed and all for      21 the shift, any problems we had. And I      22 went -- I'd go to my area of responsibility,      23 which was SOPS.</p>	<p>1 here. I walk around there, and there's the      2 security guards and John Applegate. I knew      3 what was going on, because I heard the      4 rumors, the war stories when they fire      5 someone. They bring security guards in and      6 try to bag and tag you and take you out. I      7 said, I can't believe this is happening. He      8 said no, no, we're just going to talk, you      9 ain't fired. I said, what's the security      10 guards doing here? No. No. We need to      11 talk. I said no, I know what's going on.      12 So I grabbed my radio, took it off, gave it      13 to Applegate, I think. I said, I'm going      14 back to go get my junk; I said I know y'all      15 are taking me to the gates, I'm going to get      16 my junk. No, you can't go back in there.      17 And the security guards come up. I said,      18 I've got personal stuff in there, I'm going      19 to get. No, you can't go get it. I said,      20 well, I'm not leaving without my gear.      21 Prater said, well, I'll go get it, he said      22 give me your keys. So I handed him my keys.      23 Like I said, I was so upset, I don't</p>
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<p>1       <b>Q. So at what point during that      2 evening were you pulled off the job?</b></p> <p>3       A. I'd been there probably thirty      4 minutes or an hour.</p> <p>5       <b>Q. Tell me what you had done that      6 day so far.</b></p> <p>7       A. Nothing. Like I said, I come      8 in, went to my locker, got my tools.</p> <p>9       <b>Q. Did you put your coat in your      10 locker?</b></p> <p>11      A. Yes, sir. Because it was warm      12 that night. And I went out on the floor.      13 Might have been Paul Powell and them I was      14 talking to, I don't know, somebody on the      15 other shift, to see if we had problems that      16 day. And then I went back up to my area.      17 And about -- They was having a problem or      18 something on the press, and I seen Mr. Moon      19 down there, and I come down and was talking      20 to him, and my fellow coworkers. Prater      21 come up and said we need to talk. I turn      22 around and walk off to the office and --      23 Applegate's office; he said no, no, around</p>	<p>1 remember if Applegate went with him or not.</p> <p>2       <b>Q. Okay.</b></p> <p>3       A. Then they whisked me out with      4 security guards, took me around to the gate,      5 five miles from the parking lot I had parked      6 in, took me in the office, I walked in and      7 all the security guards are sitting there      8 bowed up, staring at me, walked me in a      9 little room. That lady sits me down,      10 introduces everybody, says her name, the      11 next fellow's name, Applegate's, and      12 somebody was sitting on my side of the      13 table, I don't remember. Held a letter up      14 like this (indicating), read it, slammed it      15 down on the table. I said, you're firing      16 me; I said, you've got a team leader in      17 there who's threatening several people      18 jumped up in their faces and you're firing      19 me and letting him stay. She said yes.</p> <p>20      <b>Q. Who are you referring to?</b></p> <p>21      A. Wendy Warner, I guess. I      22 didn't know the lady.</p> <p>23      <b>Q. No. Who is the team leader</b></p>

27 (Pages 105 to 108)

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<p>1 you're referring to?</p> <p>2 A. Kevin Hughes. I mean he had 3 had several altercations.</p> <p>4 Anyhow, she slammed the paper 5 face down on the table, got up and walked 6 out. She was just cold. The little short 7 fellow, I don't remember his name, she told 8 me his name. I mean, he was cordial, but --</p> <p>9 Q. What did he look like?</p> <p>10 A. I don't know. Just a little 11 short fellow, a little overweight. He 12 wasn't fat. I don't know.</p> <p>13 Q. Okay. You don't remember his 14 name?</p> <p>15 A. Huh-uh.</p> <p>16 Q. Did he wear glasses?</p> <p>17 A. I don't remember. I was -- 18 like I said, I was upset. I've never been 19 fired, never had a blemish in my civilian or 20 military record. And here all of a sudden 21 I'm getting fired for something I didn't do.</p> <p>22 Q. Had Greg Prater brought you 23 your jacket yet?</p>	<p>1 and he said here, here's your jacket.</p> <p>2 Q. Did you look in your jacket at 3 that point?</p> <p>4 A. I looked in my jacket when 5 Prater brought it to me.</p> <p>6 Q. Did you know that there were 7 notes missing?</p> <p>8 A. Yes, I did.</p> <p>9 Q. Did you say anything to 10 Applegate?</p> <p>11 A. That's when I said, can I go 12 back and get my stuff. No. Security guard, 13 they put me in the vehicle, we left. I 14 mean . . .</p> <p>15 Q. When you were in the room with 16 Wendy Warner and the other gentlemen, 17 including Mr. Applegate, did you tell them 18 that I have some notes that are missing?</p> <p>19 A. I asked them could I go back 20 and get my personal stuff, that's what I 21 asked Applegate, said my tool bag and my 22 personal stuff, like I said before.</p> <p>23 Q. But you never told them</p>
Page 110	Page 112
<p>1 A. Yeah. He brought it to me 2 before the security guards took me out. 3 Like I said -- and I asked them then, I said 4 all that's in here is the MP3 player. I 5 said, when am I going to get the rest of my 6 junk, in the vehicle on the way around 7 there. We'll mail it to you.</p> <p>8 Q. Did you -- When you were in 9 the room with Wendy Warner and the other 10 fellow that you were talking, and anybody 11 else that was in the room, did you tell 12 them, I've got more personal stuff in my 13 locker and I'd like to go get it?</p> <p>14 A. She -- Yes, sir.</p> <p>15 Q. You said that to Wendy Warner 16 and the other people?</p> <p>17 A. I asked was I going to be able 18 to get my tool bag and my other stuff. And 19 Applegate is the one that told me no, said, 20 you're not going back in the plant.</p> <p>21 She slammed the paper down and 22 got up and left. And Applegate, he took my 23 keys to my personal safety lock, my lock,</p>	<p>1 anything specific that you were missing 2 other than your tool bag?</p> <p>3 A. I said my personal stuff.</p> <p>4 Q. And you never mentioned any 5 notes?</p> <p>6 A. No. I didn't mention 7 specifically. I said my personal stuff, 8 like I said.</p> <p>9 Q. Is it your testimony that you 10 were aware at that point in time that your 11 notes were not in your jacket?</p> <p>12 A. Yes, sir. Like I said, Prater 13 went and got my jacket, so . . .</p> <p>14 Q. Did you ask Prater where your 15 notes were?</p> <p>16 A. I don't remember. Like I say, 17 I was mad. I was upset. I never had -- I 18 never had anything -- Like I say, I've 19 served my country and I've served it 20 proudly, and I've served it for a long time.</p> <p>21 Q. Okay.</p> <p>22 A. And I'll do it again, gladly.</p> <p>23 And I've never, never been treated like I</p>

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<p style="text-align: right;">Page 113</p> <p>1 was a piece of trash like I was that night.      2 It was embarrassing. Then I have to go to      3 church on Sunday and look at my friends and      4 everybody knows, he got fired because he's      5 supposedly sleeping on the job. Everybody      6 is looking at you. No, that ain't right.</p> <p>7     <b>Q. Where were you when you</b>      8     <b>realized that the notes weren't in your</b>      9     <b>jacket?</b></p> <p>10    A. There at the shop when they      11 brought me my jacket, like I said before.</p> <p>12    <b>Q. How far is the shop from your</b>      13 <b>locker?</b></p> <p>14    A. My locker was in the shop. We      15 was on the outside of the shop. I wasn't in      16 the shop. He walked me from my area, around      17 the office, said go on around here. And we      18 went around the side of the shop.</p> <p>19    <b>Q. Could you see your locker from</b>      20 <b>where you were outside the shop?</b></p> <p>21    A. No, sir. Block wall. And I      22 had the security guards there telling me I      23 couldn't go nowhere.</p>	<p style="text-align: right;">Page 115</p> <p>1 taken care of. The first two years kicked      2 my butt. After that, I haven't had a      3 problem since.</p> <p>4     <b>Q. Okay. When was this you filed</b>      5 <b>bankruptcy?</b></p> <p>6     A. I don't know. You'll have to      7 -- I don't know. I'll have to get back with      8 you on that.</p> <p>9     <b>Q. Right when you got back from</b>      10 <b>Germany, though?</b></p> <p>11    A. No, sir. It wasn't right --      12 It was like a year or two later. I don't      13 remember.</p> <p>14    <b>Q. Where were you working then?</b></p> <p>15    A. I don't remember.</p> <p>16    <b>Q. During the time that you were</b>      17 <b>with Hyundai, did you file any sort of</b>      18 <b>complaints with the HR department?</b></p> <p>19    A. Yes, sir. That's where I      20 started out. It, apparently, didn't do no      21 good.</p> <p>22    <b>Q. All right. Let's talk about</b>      23 <b>the complaints. Did you file any written</b></p>
<p style="text-align: right;">Page 114</p> <p>1     <b>Q. Okay. And we're going to get</b>      2 <b>back to some of these issues, but I want to</b>      3 <b>cover some more basic stuff before we get</b>      4 <b>into it more deeply.</b></p> <p>5     <b>Have you ever filed any other</b>      6 <b>lawsuits?</b></p> <p>7     A. No, sir.</p> <p>8     <b>Q. Have you ever filed any</b>      9 <b>administrative complaints like with the EEOC</b>      10 <b>or some sort of governmental entity?</b></p> <p>11    A. No, sir.</p> <p>12    <b>Q. Have you ever been sued?</b></p> <p>13    A. No, sir.</p> <p>14    <b>Q. And you may have shaken your</b>      15 <b>head, but I don't know if I heard you say</b>      16 <b>no --</b></p> <p>17    A. No.</p> <p>18    <b>Q. You've not filed any EEOC --</b></p> <p>19    A. I filed -- When me and my wife      20 first came home from Germany, probably two      21 years after being home, I filed bankruptcy      22 because I didn't manage my finances right, I      23 was used to being in the Army and everything</p>	<p style="text-align: right;">Page 116</p> <p>1 <b>complaints?</b></p> <p>2     A. No, sir. There wasn't no form      3 -- a format for filing written complaints.      4 And when we tried, they didn't want to hear      5 it.</p> <p>6     <b>Q. Okay. Did you ever talk to a</b>      7 <b>team relations representative about problems</b>      8 <b>you were having?</b></p> <p>9     A. Several times. Lucas Cooner      10 and Will Ware.</p> <p>11    <b>Q. Will Ware?</b></p> <p>12    A. Yes, sir. And Lucas Cooner.</p> <p>13    <b>Q. Anybody else with Hyundai?</b></p> <p>14    A. Greg Kimball.</p> <p>15    <b>Q. Greg Kimball?</b></p> <p>16    A. And Keisha. I don't know what      17 -- I don't remember what her last name is.      18 She is no longer there. She went to Kia.      19 They moved her to Kia, in the HR department.</p> <p>20    <b>Q. Can you think of anybody else</b>      21 <b>that you complained to?</b></p> <p>22    A. Other than the managers and      23 assistant managers, the production manager</p>

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<p>1 who said he was over Prater, Craig Stapley 2 and Jim Brookshire both.</p> <p>3 Q. And the production manager was 4 who?</p> <p>5 A. Craig Stapley --</p> <p>6 Q. Stapler?</p> <p>7 A. Stapley, S-T-A-P-L-E-Y.</p> <p>8 Q. All right. And what other 9 members of management did you complain to?</p> <p>10 A. That was about it, I reckon.</p> <p>11 Q. Just to make sure I'm clear, 12 you never submitted anything in writing to 13 human resources?</p> <p>14 A. There was no way to submit 15 anything in writing. When I complained they 16 didn't want to hear anything about it. I 17 submitted an e-mail to Greg Kimball about 18 Prater harassing me about my Guard duty, and 19 I never received a reply to the e-mail in 20 person or anything.</p> <p>21 Q. When you say the last time 22 Greg Prater harassed you about your Guard 23 duty --</p>	<p>1 Q. What was your log-in? 2 A. I don't know. That was a year 3 ago, almost. I don't know.</p> <p>4 Q. Okay.</p> <p>5 A. I have no idea. I think it 6 was my clock number, I think. I'm not sure.</p> <p>7 Q. Okay. Do you know when you 8 were assigned the log-in ID?</p> <p>9 A. It wasn't long after I was 10 hired. I'm not sure.</p> <p>11 Q. Was it after you were hired?</p> <p>12 A. Yeah.</p> <p>13 Q. Okay. So when you say you 14 sent an e-mail to Greg Kimball, would that 15 have been on an internal Hyundai system, 16 e-mail system?</p> <p>17 A. Yes, sir.</p> <p>18 Q. You didn't send it from 19 Yahoo --</p> <p>20 A. No, sir.</p> <p>21 Q. -- or Google e-mail or 22 anything like that?</p> <p>23 A. No, sir. It was on the</p>
<p style="text-align: center;">Page 118</p> <p>1 A. Before I got fired.</p> <p>2 Q. Where did you send the e-mail 3 from?</p> <p>4 A. The maintenance shop.</p> <p>5 Q. All right. Was Greg Kimball 6 working at that time?</p> <p>7 A. I don't remember. I think it 8 was on -- I don't remember if it was on day 9 shift or night shift. I think it was on 10 night shift. But the e-mail, I mean, that 11 was probably a month before I'd gotten 12 fired, and he had plenty of time to respond.</p> <p>13 MR. SPORT: Matt, we'd like to 14 request that e-mail, because I don't think 15 we have that.</p> <p>16 (Recess taken.)</p> <p>17 Q. Mr. Dees, we're back on the 18 Record.</p> <p>19 You had talked a minute ago 20 about an e-mail you sent to Greg Kimball. 21 Did you have a log-in ID and a password at 22 Hyundai?</p> <p>23 A. Yes, sir.</p>	<p style="text-align: center;">Page 120</p> <p>1 Hyundai system.</p> <p>2 Q. And it was while you were at 3 work?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And do you remember where you 6 sent it from?</p> <p>7 A. The maintenance shop. Stamp 8 and maintenance shop.</p> <p>9 Q. Anybody else see you send it?</p> <p>10 A. Drake Barefoot and someone 11 else was there. I don't remember who the 12 other one was.</p> <p>13 Q. Do you remember what was in 14 it?</p> <p>15 A. It was a -- I don't remember 16 the exact wording, no. I was complaining to 17 Mr. Kimball that Prater was still giving me 18 a hard time about my Guard duty, and I felt 19 that my job was in jeopardy for that reason. 20 Because even -- Like I said, even after my 21 unit sent the letter, I complained to HR at 22 least two more times and both times met with 23 negative results, and I was still getting</p>

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1 harassed about getting orders for my weekend 2 duty, when I wasn't showing up to work to go 3 to drill.	1 A. Prater. And supposedly 2 Applegate was backing him up, because 3 Applegate backed him on everything else, and 4 HR backed him too. And he told me I had to 5 use my vacation time -- He was thinking 6 about making me use my vacation time in lieu 7 of my military leave. And I said, well, 8 you're just going to go against the HMMA 9 handbook and throw it out the window. Rob 10 Clevenger told me I can do whatever I want 11 to, run my shop however I need to for the 12 benefit of the company.
4 Q. Was the e-mail after you went 5 to HR? 6 A. Yes, sir. 7 Q. And the e-mail was after 8 somebody apparently sent a letter to 9 Hyundai? 10 A. Yes, sir. After my unit sent 11 the letter.	13 Q. And this is Greg Prater said 14 that? 15 A. Yes, sir. Then he said that 16 Rob Clevenger had told him that.
12 Q. Okay. Did you talk to anybody 13 else in management or in HR after you sent 14 that e-mail? 15 A. No, sir. I don't believe so. 16 Q. Okay. 17 A. I mean, I don't know. Like I 18 said, that was almost a year ago.	17 Q. Did John Applegate ever tell 18 him he could do that, to your knowledge? 19 A. John Applegate told me to my 20 face that whatever decision Greg Prater 21 makes, he would back him on it.
19 Q. Okay. But you don't recall 20 it? 21 A. No, sir. 22 Q. Do you recall having any more 23 discussions with Greg Prater about your	22 Q. Did anybody else from human 23 resources ever say anything like that, to
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1 service or weekend duty or anything after 2 that e-mail got sent? 3 A. He was always -- If he wasn't 4 telling me to bring in orders about my Guard 5 duty, he was making fun of what we did. Oh, 6 y'all just go down there and drink. Like I 7 said, it didn't matter who I complained to, 8 I complained to Greg Kimball, or Keisha, 9 John Applegate, they all: Well, I've never 10 heard Greg say anything like, I've never 11 heard Greg talk in a derogatory manner. 12 Q. That's what they said? 13 A. Yeah. And we back Greg up in 14 any decision he makes. 15 Q. When you talked to William 16 Ware, who's with team relations, what did he 17 say about it? 18 A. Prater would always use the 19 excuse that Rob Clevenger just said I can 20 do -- just like in the instance he was 21 trying to make me use my vacation for my 22 military service when I went to school. 23 Q. Who was?	1 your knowledge? 2 A. Keisha -- Greg Kimball -- The 3 only reason HR got on to Prater the first 4 time was because he told us we couldn't talk 5 to HR. As far as my military obligation, 6 anything else, nothing ever came out of 7 that. It was just like I hadn't said 8 anything to them at all. 9 (Off-the-Record discussion 10 was held.) 11 Q. The notes that you said you 12 kept? 13 A. Yes, sir. 14 Q. When did you start keeping 15 them? 16 A. The first time I went to HR. 17 I mean, when Prater -- he was -- He said he 18 was a tank commander in the National Guard 19 as an E-4, that's not allowed. It goes 20 against Army regulation. 21 Q. Say that again. I'm sorry. 22 A. He said that he was a tank 23 commander in the National Guard as an E-4.

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<p style="text-align: right;">Page 125</p> <p>1 He showed me his ID card one time, he was a 2 corporal, and his ID card was expired. And 3 you're not allowed to be a tank commander in 4 the National Guard or the Army, period, as 5 an E-4. You have to be an E-7 or higher. 6 But anyhow -- What did you ask me? What did 7 I start out on?</p> <p>8       <b>Q.</b> No. Let's -- I mean --</p> <p>9       <b>A.</b> Like I said, Clevenger and all 10 of them -- His excuse on everything was Rob 11 Clevenger told me I can run my shop how I 12 want to for the benefit of the company.</p> <p>13       <b>Q. Okay. Now, to your knowledge,</b> 14 <b>did Rob Clevenger ever say anything to you</b> 15 <b>about your military service?</b></p> <p>16       <b>A.</b> I never met the man.</p> <p>17       <b>Q. So you don't have any</b> 18 <b>firstrhand information --</b></p> <p>19       <b>A.</b> But Will Ware sat there and 20 told Prater, well, he can do whatever he 21 wants to, in front of me and everybody.</p> <p>22       <b>Q. Said who can do whatever he</b> 23 <b>wants to?</b></p>	<p style="text-align: right;">Page 127</p> <p>1 Everything was Rob Clevenger and human 2 resources and Applegate said I can do this. 3 And every time we talked to human relations 4 or human resources or Applegate, they backed 5 him up on every conversation.</p> <p>6       <b>Q. Okay. Tell me when did -- You</b> 7 <b>first started taking notes when?</b></p> <p>8       <b>A.</b> Like I said, the very first 9 time he got on to me about my Guard duty. I 10 don't remember the exact date. I have no 11 idea.</p> <p>12       <b>Q. Do you remember the</b> 13 <b>approximate date?</b></p> <p>14       <b>A.</b> No. I mean, August, 15 September, I don't know. July, August, 16 September, I don't know.</p> <p>17       <b>Q. At that point in time, did he</b> 18 <b>have your calendar for that year?</b></p> <p>19       <b>A.</b> He had my calendar when I 20 hired on.</p> <p>21       <b>Q. Okay.</b></p> <p>22       <b>A.</b> We get our yearly training 23 calendar every October.</p>
<p style="text-align: right;">Page 126</p> <p>1       <b>A.</b> That Prater could. And that 2 Applegate and HR could. He said we can run 3 the company however we want to.</p> <p>4       <b>Q. William Ware said that?</b></p> <p>5       <b>A.</b> Yes, sir. Because Prater put 6 him on the spot, and he had to come up with 7 an answer.</p> <p>8       <b>Q. How did Prater put him on the</b> 9 <b>spot?</b></p> <p>10       <b>A.</b> Prater -- Because I was told 11 to stay over that morning. Their handbook, 12 once again, states that you don't have to 13 stay over -- you can't be forced over ten 14 hours. I'd worked ten hours, Prater come up 15 and asked questions. I said as long as it 16 don't take over fifteen minutes, I'm tired. 17 He said, I can force you to stay here 18 twenty-four hours a day if I want to. I 19 said, no, once again, that goes against your 20 own handbook.</p> <p>21       <b>Q. What -- Is this a different</b> 22 <b>conversation here?</b></p> <p>23       <b>A.</b> Yeah. Like I said he just --</p>	<p style="text-align: right;">Page 128</p> <p>1       <b>Q. Uh-huh.</b></p> <p>2       <b>A.</b> And he had it in his office on 3 his desk.</p> <p>4       <b>Q. Greg Prater did?</b></p> <p>5       <b>A.</b> Yes, sir.</p> <p>6       <b>Q. Okay. So there would be no</b> 7 <b>question that if you were scheduled for</b> 8 <b>duty, he had it in advance?</b></p> <p>9       <b>A.</b> Yes, sir.</p> <p>10       <b>Q. Okay.</b></p> <p>11       <b>A.</b> But yet he still wanted 12 military orders. And I backed him up on it.</p> <p>13       <b>Q. Did he want military orders</b> 14 <b>for every single weekend duty, every</b> 15 <b>training --</b></p> <p>16       <b>A.</b> Not the first six or eight 17 months, no, sir.</p> <p>18       <b>Q. Okay. When did he ask for</b> 19 <b>orders?</b></p> <p>20       <b>A.</b> Like I said, I don't remember 21 the exact date. I don't know. You're 22 wanting a date, and I can't give it to you.</p> <p>23       <b>Q. Can you give me an approximate</b></p>

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<p>1 date?</p> <p>2 A. I already did.</p> <p>3 MR. SPORT: Matt, we've 4 produced those documents, those drill 5 schedules, but they've not been produced to 6 us from Hyundai's records, so we'd also like 7 those.</p> <p>8 Q. And, again, just to make sure 9 I'm clear, the year that you say that he 10 started demanding orders, that was in 2006?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay. Do you have any idea 13 approximately how many times Greg Prater 14 asked you for copies of your orders?</p> <p>15 A. I don't know. Seems like it 16 was every month. But to be honest, the 17 exact times, no. I have no idea.</p> <p>18 Q. Do you remember when the last 19 time he asked you for a copy of your orders 20 was?</p> <p>21 A. No, sir. Like I said, I don't 22 -- the exact dates and times, no, sir. I 23 don't know.</p>	<p>1 statement, no, this ain't Guard related, and 2 he was out of it.</p> <p>3 Q. All right. You don't remember 4 who told you that?</p> <p>5 A. The ESGR rep. I don't 6 remember his name, no.</p> <p>7 Q. Did he provide you any sort of 8 paperwork or anything?</p> <p>9 A. No, sir.</p> <p>10 Q. Do you know if Hyundai 11 provided him with any paperwork or evidence?</p> <p>12 A. No, sir. He said that -- Per 13 the conversation, he said I called them, and 14 this is what was said, so I'm out of it.</p> <p>15 Q. Okay.</p> <p>16 A. So I don't know if they 17 provided him with paperwork or not. I mean, 18 I have no idea.</p> <p>19 Q. Again, I just want to make 20 sure I understand what it is he said he was 21 told. This didn't have to do with guard 22 duty?</p> <p>23 A. That's what they told him.</p>
<p>1 Q. Okay. Was there a period in 2 time from the date that you were terminated 3 in which you and Greg Prater did not have 4 any discussions about your Guard duties?</p> <p>5 A. I don't know. I filed a 6 complaint to the ESGR.</p> <p>7 Q. When was that?</p> <p>8 A. I don't know. I don't know if 9 it was right before I got fired or after I 10 got fired. And they basically told me that 11 if Hyundai tells them it's not a military 12 matter, they don't have anything to do with 13 it. And that's what happened, so that was a 14 deadend street.</p> <p>15 Q. Wait. Who said that?</p> <p>16 A. The ESGR representative. I 17 can't remember his name. Dan or -- I don't 18 remember. I e-mailed him and he e-mailed me 19 and he said -- then he called me one time 20 and said, well, I've called them, they told 21 me this has nothing to do with the Guard, so 22 therefore I cannot get involved. And he 23 went off, all they got to do was a</p>	<p>1 That's what they're going to say. That's 2 common sense. I mean . . .</p> <p>3 Q. And to your knowledge, he 4 didn't know anything else?</p> <p>5 A. No, sir.</p> <p>6 Q. And you don't remember his 7 name?</p> <p>8 A. I think it was Dan something. 9 I don't know. They've got -- They had 10 copies of the e-mails. I don't know.</p> <p>11 Q. Who is they?</p> <p>12 A. Hyundai, I think. I don't 13 remember. I seen a copy of it somewhere. I 14 don't know.</p> <p>15 (Whereupon, Defendant's 16 Exhibit No. 3 was marked 17 for identification.)</p> <p>18 Q. Okay. Let's go -- I want to 19 go through what we've marked as Defendant's 20 Exhibit 3, which is a copy of the complaint 21 that you and your lawyers filed.</p> <p>22 If you go over a couple of 23 pages you'll see a page that's marked</p>
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<p style="text-align: right;">Page 133</p> <p>1      complaint.</p> <p>2      A. All right.</p> <p>3      Q. Did you have an opportunity to</p> <p>4      review it before it got filed?</p> <p>5      A. Yes, sir. I believe so.</p> <p>6      Q. Okay.</p> <p>7      A. I believe. I don't know.</p> <p>8      Like I say, that's been a year ago.</p> <p>9      Q. Okay. Let's turn to page two,</p> <p>10     paragraph seven. In there it says you began</p> <p>11     working on or about November 21, 2005. Do</p> <p>12     you agree with that?</p> <p>13     A. Yes, sir.</p> <p>14     Q. Okay. And it says you were</p> <p>15     working as a maintenance technician in the</p> <p>16     stamping maintenance department; is that</p> <p>17     accurate?</p> <p>18     A. Yes, sir.</p> <p>19     Q. And were you working under the</p> <p>20     direct supervision of Kevin Hughes, who is</p> <p>21     identified as a team leader?</p> <p>22     A. Yes, sir, he was a team</p> <p>23     leader.</p>	<p style="text-align: right;">Page 135</p> <p>1      over in the stamping shop.</p> <p>2      Q. Okay. So when did John</p> <p>3      Applegate tell you anything about his</p> <p>4      relationship with Greg Prater?</p> <p>5      A. As in?</p> <p>6      Q. His working relationship, who</p> <p>7      reported to who?</p> <p>8      A. Well, the very first time I --</p> <p>9      I believe it was the first time I went to</p> <p>10     HR. Then after HR, Applegate wanted to know</p> <p>11     why we had gone to HR, I believe.</p> <p>12     Q. When you say "we went to HR,"</p> <p>13     who are you talking about?</p> <p>14     A. I, myself, Barefoot, and</p> <p>15     Weihe.</p> <p>16     Q. All right. And what was that</p> <p>17     about?</p> <p>18     A. It all started with me because</p> <p>19     of Prater and my Guard duty. Then it went</p> <p>20     from that to he told -- I told him, I said,</p> <p>21     well, I'm going to talk to HR about this</p> <p>22     after this meeting. He said HR is not in</p> <p>23     your chain of command, you don't have the</p>
<p style="text-align: right;">Page 134</p> <p>1      Q. Okay. And were you also</p> <p>2      working under Greg Prater?</p> <p>3      A. Yes, sir. He was the</p> <p>4      assistant manager.</p> <p>5      Q. Okay. And it's indicated in</p> <p>6      here that Greg Prater reported to John</p> <p>7      Applegate, is that your understanding?</p> <p>8      A. Yes, sir.</p> <p>9      Q. And who -- Do you know who</p> <p>10     John Applegate is?</p> <p>11     A. As far as I know, he was the</p> <p>12     only American in charge of the American side</p> <p>13     of the maintenance.</p> <p>14     Q. What makes you think that</p> <p>15     Prater was reporting to Applegate?</p> <p>16     A. Only thing we had -- That was</p> <p>17     the way Applegate and Prater put it.</p> <p>18     Q. To who?</p> <p>19     A. All of us in the section.</p> <p>20     Q. Okay. I mean, did you have</p> <p>21     regular conversations with John Applegate?</p> <p>22     A. No, sir. He had an office</p> <p>23     over in the energy building, and we worked</p>	<p style="text-align: right;">Page 136</p> <p>1      authority to talk to them.</p> <p>2      Q. Who said that?</p> <p>3      A. Prater. I said -- Well, I</p> <p>4      said, the handbook we're supposed to be</p> <p>5      going by says HR has an open-door policy,</p> <p>6      and I can talk to them any time. And I</p> <p>7      said, you're telling me my Guard duty is a</p> <p>8      problem, I said, I'm going to talk to HR.</p> <p>9      And Chris Weihe and Barefoot said, well,</p> <p>10     we're going to talk to them too. They had</p> <p>11     their own issues.</p> <p>12     Q. Let me ask you this. So you</p> <p>13     sat down with Greg Prater and Chris Weihe?</p> <p>14     A. No. He called the whole shift</p> <p>15     in. It started out about a schedule. He</p> <p>16     called the whole shift in, some goof up</p> <p>17     about a schedule, the weekend. They got a</p> <p>18     force list, an overtime force list. And he</p> <p>19     would just take his force list and disregard</p> <p>20     it, his own list, and that Applegate had</p> <p>21     signed off on and HR had signed off on, and</p> <p>22     threw it out the window and come out with</p> <p>23     his own list. I had Guard duty that</p>

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<p>1 weekend, I said, I'm not going to be here.      2 He said, you're going to be here or you're      3 going to produce orders. I said, I'm going      4 to talk to HR.</p> <p>5       <b>Q. Okay. And Chris Weihe and</b>      6 <b>Drake Barefoot were in on that discussion?</b></p> <p>7       A. The whole shift was.</p> <p>8       <b>Q. Okay. And tell me more. What</b>      9 <b>else did Greg Prater say -- Was that the</b>      10 <b>first time you had a problem with him about</b>      11 <b>your Guard duty?</b></p> <p>12      A. That's where it all started,      13 yes.</p> <p>14      <b>Q. Okay.</b></p> <p>15      A. Wasn't the first time. I'd      16 been blowing it off up to this point.</p> <p>17      <b>Q. Okay. Who did you go see --</b>      18 <b>Well, did you go see --</b></p> <p>19      A. That was the first time I went      20 to HR and complained about it.</p> <p>21      <b>Q. Is that when you talked to</b>      22 <b>Keisha?</b></p> <p>23      A. No, sir. That's when I talked</p>	<p>1 the very first time it happened.</p> <p>2       <b>Q. Okay. Let me go back to your</b>      3 <b>complaint. In paragraph eight there on page</b>      4 <b>three, it says that harassment of Dees by</b>      5 <b>Hyundai through Prater and Hughes began</b>      6 <b>almost immediately when Prater learned that</b>      7 <b>Dees was a member of the Alabama Army</b>      8 <b>National Guard and had served two tours in</b>      9 <b>Iraq.</b></p> <p>10       <b>Did Greg Prater -- How did</b>      11 <b>Greg Prater harass you because you were a</b>      12 <b>member of the Guard or because you served to</b>      13 <b>tours in Iraq?</b></p> <p>14       A. He said that -- He made the      15 comment that he had been in Baghdad, he had      16 killed people, he had been a Navy SEAL, he      17 had been a tank commander. And when I asked      18 him where he was at in Baghdad, he says --      19 when I asked him where he was in Iraq, I was      20 on the southside of Baghdad. I said, what      21 compound? I don't remember, there was so      22 many. I said, what was the name of the      23 compound? I don't remember. You know how</p>
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<p>1 to Greg Kimball. He was the very first one      2 I talked to. I was told that he was the man      3 in charge of human resources, and that's who      4 I talked to.</p> <p>5       <b>Q. And you spoke to him face to</b>      6 <b>face?</b></p> <p>7       A. Yes, sir. In his office.</p> <p>8       <b>Q. Okay. I mean, did you submit</b>      9 <b>anything in writing to him?</b></p> <p>10      A. No, sir.</p> <p>11      <b>Q. Any e-mails at that time?</b></p> <p>12      A. No, sir.</p> <p>13      <b>Q. I mean, did you just show up</b>      14 <b>in his office, did you schedule a meeting</b>      15 <b>with him?</b></p> <p>16      A. I took my lunch break. I did      17 not leave my work floor --</p> <p>18      <b>Q. What time was your lunch</b>      19 <b>break?</b></p> <p>20      A. I don't remember.</p> <p>21      <b>Q. You were working the night</b>      22 <b>shift?</b></p> <p>23      A. No. I was on the day shift</p>	<p>1 it was there was compounds all over the      2 southside of Baghdad. I said, no, there      3 wasn't, there was one, the one I lived in.      4       And I had put him on the spot      5 because I listened to him six or eight      6 months, him and Applegate come around and      7 Prater start running up and talking about      8 how he been in combat and killed so many      9 people. And Applegate was like, yeah, this      10 is my boy. And I got friends that died in      11 Iraq, I've killed people in Iraq, and my      12 friends served proudly in Iraq. And      13 Applegate and HR and everybody was making a      14 disgrace of what we had done.</p> <p>15       <b>Q. Well, what --</b></p> <p>16       A. When I went to them with my      17 complaints about my Guard duty, being forced      18 to produce military orders, they were like,      19 well, we'll look into the regulations.</p> <p>20       <b>Q. Did Applegate ever demean you</b>      21 <b>or try to diminish your service in Iraq in</b>      22 <b>any way?</b></p> <p>23       A. He basically sat there the</p>

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1 last -- said, well, I know Prater is a hero. 2 And he's -- like I said, basically he's my 3 man, he's my boy. 4 Q. When did he say that? 5 A. I don't remember the exact 6 date. I don't know. 7 Q. Okay. 8 A. Ask him. 9 Q. Other than saying good things 10 about Prater, did he say anything bad about 11 you or your service? 12 A. Directly, no. 13 Q. Indirectly what did he say? 14 A. Well, I -- I don't know. Like 15 I say, that's been a long time ago. 16 Q. All right. I need -- 17 A. And just -- You're asking a 18 question I can't answer. 19 Q. That's fine. If you can't 20 answer, that's all I need to know. 21 A. He'd make comments like: What 22 do you need to go down there for, all y'all 23 do is party.	1 when you do this duty is party? 2 A. To my face, yes. 3 Q. Okay. So did he and Prater 4 say that? 5 A. Prater said that in front of 6 everybody. 7 Q. Okay. Who did John Applegate 8 say it in front of? 9 A. Me. Like I said, I had to 10 have meetings -- If I complained to HR, I 11 had to go see Applegate. 12 Q. There are no witnesses to 13 Applegate saying all y'all do is party; 14 right? 15 A. Nope. 16 Did your lawyers interview him 17 too? 18 Q. Let me ask you about Keisha. 19 Did Keisha ever say anything to you about 20 you or your service in the Guard or Iraq? 21 A. No. She just said I had to 22 have orders before I could be deployed or 23 sent out.
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1 Q. Who said that? 2 A. Prater -- 3 Q. I know. Let's talk about 4 Applegate. Let's try to do this in some 5 orderly fashion. 6 A. It's my depo, so I've got to 7 go at my own rate. 8 Q. All right. Let me ask you 9 this: Am I hearing you correctly that you 10 don't have anything to tell me about ways 11 that Applegate either directly or indirectly 12 said bad things about you or your service? 13 A. No. Just, like I said, that I 14 need to focus more on my job and not worry 15 about my Guard duty, and most of the time 16 all they do is party down there anyhow. 17 Q. Is that the worst thing that 18 Applegate said? 19 A. Yeah. Other than like I said, 20 just backing Prater up saying whatever 21 Prater decides is what I'm going with. 22 Q. And are you telling me that 23 John Applegate told you that all y'all do	1 Q. Did Greg Kimball ever say 2 anything about you or your service in the 3 Guard or Iraq or Korea or anywhere else? 4 A. No. The only thing he was 5 worried about was that Prater told us we 6 couldn't talk to human resources. He didn't 7 care about -- basically didn't care about 8 the complaint I was making about Prater 9 harassing me about my Guard. The only thing 10 he worried about was Prater telling we 11 couldn't talk to human resources. 12 Q. Because he disagreed with it? 13 A. Yeah. Because it's basically 14 telling him that he's not over Prater, that 15 Prater can do whatever he wants. That's the 16 only reason he got -- He could care less 17 whether Prater was harassing me about my 18 Guard service. 19 Q. What makes you think he could 20 care less? 21 A. Because nothing was done about 22 it, ever. 23 Q. Let me ask you this: Did

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<p>1 Kimball ever say anything to suggest that 2 either you or your service in Iraq or the 3 Guard was insignificant?</p> <p>4 A. No. Like I say, the only 5 thing he cared about was Prater saying we 6 couldn't talk to him.</p> <p>7 Q. Okay.</p> <p>8 A. But that still doesn't excuse 9 the fact that he let Prater get away with 10 telling me I had to have military orders or 11 I was going to get wrote up for missing 12 work.</p> <p>13 Q. Did William Ware ever say 14 anything to you about your military service, 15 your Guard duty service in Iraq?</p> <p>16 A. No. Will's only job there was 17 to keep the union out, keep peace, and tell 18 us that Prater could do whatever he wanted 19 to.</p> <p>20 Q. Okay. Did anybody other than 21 Applegate and/or Prater say anything about 22 your service in Iraq, your service in the 23 National Guard, or your uniformed service?</p>	<p>1 that during your reserve or Guard duty 2 people partied?</p> <p>3 A. Yes.</p> <p>4 Q. And did he ever say anything 5 else that was demeaning or insulting or 6 harassing in any way with respect to your 7 service?</p> <p>8 A. Other than backing Prater up 9 about having to have military orders, no.</p> <p>10 Q. Okay. So backing Prater up 11 about orders?</p> <p>12 A. Yeah.</p> <p>13 Q. Okay. You've indicated in 14 paragraph nine of your complaint in 15 subparagraph B, that Prater told you you 16 couldn't miss work to attend Guard training?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Was that on one occasion or 19 multiple occasions?</p> <p>20 A. That was on multiple 21 occasions.</p> <p>22 Q. Okay. And do you remember 23 specifically any of those particular</p>
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<p>1 A. No. But like I said, that 2 doesn't change the factor or dismiss the 3 fact that they let him tell me I had to have 4 military orders or I was getting wrote up.</p> <p>5 Q. All right. And understand, 6 I'm trying to figure out what the evidence 7 is, I'm trying to figure out what people 8 said and what you know.</p> <p>9 A. Uh-huh.</p> <p>10 Q. So, I want to figure out who 11 said what.</p> <p>12 A. All right.</p> <p>13 Q. Can you think of anybody else, 14 other than Applegate or Prater, that ever 15 said anything or did anything to you that 16 was harassing or demeaning in any way with 17 respect to your uniformed service?</p> <p>18 A. No. I never had a problem 19 with anyone else about it.</p> <p>20 Q. Okay. And with respect to 21 Applegate, I just want to make sure I 22 understand exactly what it is he said and 23 did. Am I correct that he made a comment</p>	<p>1 occasions?</p> <p>2 A. Well, I mean, sometimes he'd 3 just walk up and say, hey, you've got to 4 have orders this weekend or it's a write-up, 5 and sometimes he'd say it in front of 6 everybody.</p> <p>7 Q. Did he ever write you up for 8 not having orders?</p> <p>9 A. No, sir.</p> <p>10 Q. Did anybody ever write you up 11 for anything related to your military 12 service?</p> <p>13 A. Not that I know of. I don't 14 know. I never signed anything.</p> <p>15 Q. Okay. And you were never told 16 that you were being written up after the 17 fact?</p> <p>18 A. After the fact, no, sir. He 19 just still kept coming up harassing me 20 saying where's your orders, where's your 21 orders.</p> <p>22 Q. Did you ever not attend any 23 Guard duty because of --</p>

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<p style="text-align: right;">Page 149</p> <p>1       A. Because of work?</p> <p>2       <b>Q. Because of Greg Prater or</b> <b>3 work?</b></p> <p>4       A. I don't know. I'd have to go 5 back and look at my LES's and see.</p> <p>6       <b>Q. Let me ask you this: Do you</b> <b>7 remember ever skipping any Guard duty on a</b> <b>8 weekend, or a week-long duty, or any sort of</b> <b>9 training because of your job at Hyundai?</b></p> <p>10      A. I don't know. I may have.</p> <p>11      <b>Q. But you don't remember it?</b></p> <p>12      A. I may have. I don't know.</p> <p>13      <b>Q. Do you remember it?</b></p> <p>14      A. I said I don't know.</p> <p>15      <b>Q. Okay. And I assume you</b> <b>16 haven't provided your attorneys with any</b> <b>17 information to suggest you ever missed any</b> <b>18 Guard duty because of your work at Hyundai?</b></p> <p>19      A. Like I said, I can go back and 20 look at my LES's and see.</p> <p>21      <b>Q. All right. Let me ask you</b> 22 <b>this: In paragraph 9-E of your complaint it</b> <b>says: Prater attempted to force Dees'</b></p>	<p style="text-align: right;">Page 151</p> <p>1       Shane said out of his own mouth that that's 2 what Prater had said and he made the 3 statement -- he wrote a statement saying 4 that.</p> <p>5       <b>Q. Okay. Who from team relations</b> <b>6 were they with?</b></p> <p>7       A. Will Ware.</p> <p>8       <b>Q. Were there any other instances</b> <b>9 that fall within what you've described in</b> <b>10 paragraph 9-E?</b></p> <p>11      A. Yeah. One other time that I 12 had a breakdown, Prater tried to get Shane 13 to say that I said, heck with the breakdown, 14 let's just go to lunch. And I never stated 15 that. That was Shane, myself, and Drake 16 Barefoot there. And Drake was the one that 17 made the comment, but Prater wouldn't talk 18 to Drake. And I asked him what happened, he 19 called Shane in once again trying to get 20 Shane to say I had caused the breakdown and 21 just walked off and left it, when Drake had 22 to run him down that I'm the one that stated 23 it --</p>
<p style="text-align: right;">Page 150</p> <p>1       <b>coworkers to say that Dees had violated</b> 2 <b>Hyundai's policies and procedures when</b> 3 <b>Prater knew it was not true.</b></p> <p>4       <b>Do you have any idea from a</b> 5 <b>factual perspective what that means?</b></p> <p>6       A. Yes, sir.</p> <p>7       <b>Q. Tell me about that.</b></p> <p>8       A. About a month before I was 9 fired he tried to get one of my coworkers to 10 say that I was creating a hostile work 11 environment.</p> <p>12      <b>Q. Who did he say that to?</b></p> <p>13      A. Shane Archer.</p> <p>14      <b>Q. What did he say to Shane?</b></p> <p>15      A. He wanted Shane to say -- He 16 called Shane in the office with team 17 relations and wanted Shane to specifically 18 say that Leon was creating a hostile work 19 environment.</p> <p>20      <b>Q. You think he called Shane into</b> 21 <b>a meeting with team relations?</b></p> <p>22      A. We all saw Shane go in the 23 office with him and team relations. And</p>	<p style="text-align: right;">Page 152</p> <p>1       <b>Q. That you stated what?</b></p> <p>2       A. That I didn't, that Drake 3 stated it.</p> <p>4       <b>Q. Did you walk off the</b> 5 <b>breakdown?</b></p> <p>6       A. No.</p> <p>7       <b>Q. You did not?</b></p> <p>8       A. No. We took our lunch shifts 9 -- Half the shift come in an hour early and 10 other shift came in an hour late. We split 11 our lunch breaks up. We had a breakdown in 12 my section. The SOP asked -- that I was 13 told to stay in is where they supposedly 14 caught me sleeping. It's out in open view 15 of everybody. And I was working on it, we 16 had worked fifteen minutes over into our 17 lunch break, and myself and Drake was 18 working on it. I handed my radio to Shane, 19 said call Kevin and get him to get the other 20 ones out here, they're fifteen minutes into 21 our lunch break, they're over theirs, tell 22 them to come finish up. Shane went up and 23 took the radio, went downstairs, he found</p>

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<p>1 Kevin told him what was going on, me and      2 Drake was still working on the breakdown.      3 Kevin came up, everything was explained to      4 him, told him what he had to do to fix it.      5 Drake said, heck with this, he used a      6 four-letter word, said, we're going to      7 lunch. Kevin said, well, I don't know how      8 to fix this. Drake says, you need to step      9 up and do your job. We told you how to fix      10 it, we're going to lunch. And the other      11 shift came out, took the breakdown.</p> <p>12 When I came in the next night,      13 the same thing, Jim Brookshire and Prater      14 and them was in there telling me that I had      15 walked off of a breakdown and left the line      16 down.</p> <p>17 Q. You said Brookshire was there?</p> <p>18 A. Yes, sir. Trying to chew me      19 out for having a breakdown. Drake seen what      20 was going on, come in and to talk to them.      21 They said, no, we got this. He called Shane      22 in and tried to get Shane to say Leon said      23 such and such. Drake come and said this is</p>	<p>1 are saying.</p> <p>2 Q. Whose statements?</p> <p>3 A. Will Ware's and Prater's.</p> <p>4 Q. Okay.</p> <p>5 A. That's what he admitted to the      6 coworkers after I was fired. This Wendy      7 Warner totally bypassed all their own      8 policies in their handbook for termination,      9 their termination procedure, and fired me      10 right off the bat, off someone else's word.      11 That's what I'm saying, everybody knew about      12 the problem, and everybody supported him on      13 every decision he made; they supported      14 Applegate, human resources.</p> <p>15 Q. Can you think of any other      16 instances that fit within paragraph 9-E of      17 your complaint?</p> <p>18 A. I don't know. You keep      19 asking, there may be something. I don't      20 know.</p> <p>21 Q. That's why I keep asking.</p> <p>22 A. I don't know. Maybe. I don't      23 remember anything else right now at this</p>
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<p>1 what happened, I'm the one that said what      2 you're trying to blame on him, this is how      3 it happened. They didn't want to talk to      4 Drake, he had to force them to listen.</p> <p>5 Q. Were you written up or      6 anything for that?</p> <p>7 A. No. I would have been if it      8 hadn't been for Drake.</p> <p>9 Q. Was there another incident      10 where you walked off your job to your      11 recollection?</p> <p>12 A. I don't believe so. After      13 reading all the stuff from Hyundai,      14 apparently they had a lot to say about me.</p> <p>15 Q. But to your knowledge, this      16 incident that you're talking about, was it      17 investigated by team relations?</p> <p>18 A. No. It was investigated by      19 Prater, the same one who investigated me for      20 supposedly sleeping, and firing me. He did      21 the sole investigation.</p> <p>22 Q. You think Prater did?</p> <p>23 A. That's what their statements</p>	<p>1 moment.</p> <p>2 Q. Okay. Paragraph 9-F of the      3 complaint talks about having to clean out      4 the pit.</p> <p>5 A. Yes, sir.</p> <p>6 Q. All right. Let's talk a      7 little bit about the pit. Is there just one      8 pit at the plant?</p> <p>9 A. Yes, sir. It's all one big      10 system.</p> <p>11 Q. I mean, is there one pit or      12 two pits or three?</p> <p>13 A. There was one -- After I      14 answer this, we've got to go to lunch. My      15 stomach is growling.</p> <p>16 There's a pit under each      17 press.</p> <p>18 Q. All right. So there's more      19 than one pit?</p> <p>20 A. There's two presses and one      21 pit under the -- what's that other -- I      22 can't remember what that other press is      23 called, where it all -- scrap comes from two</p>

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<p>1    pits on a metal conveyor and goes down to 2    that where it's all crushed into one bale 3    and sent out and sold for scrap.</p> <p>4    Q.   Okay.</p> <p>5    A.   But I was always sent under 6    press one or two pit to clean up.</p> <p>7    Q.   Okay.</p> <p>8    A.   It's a dangerous process. 9    Because when you get down there, you have no 10   communication with nobody. If anything 11   happens to you, you're there until somebody 12   decides to come looking for you.</p> <p>13   Q.   Let me ask you this: What 14   evidence do you have to suggest that anybody 15   at Hyundai assigned you to clean the pit to 16   try to get you to quit your job?</p> <p>17   A.   Because after all this stuff 18   come up and my unit sent the letter, it 19   wasn't but a few weeks after that, I was 20   getting sent down to the pit to clean it, at 21   least once, two or three times a week, 22   sometimes three or four times a week. 23   Wasn't even our responsibility, production</p>	<p>1    Q.   So am I right, that the pit, 2    it wasn't like something that was cleaned on 3    schedule?</p> <p>4    A.   No, sir. Well, it was 5    supposed to be but, no, sir.</p> <p>6    Q.   Okay. Wasn't like there was a 7    schedule posted on the wall for who was 8    supposed to clean it when and that kind of 9    stuff?</p> <p>10   A.   No, sir. That was a 11   production thing. But it didn't turn out to 12   be a production thing.</p> <p>13   Q.   How many times do you think 14   you had to clean the pit?</p> <p>15   A.   God, I don't know. Like I 16   said, several weeks, at least two, three, 17   four times a week.</p> <p>18   Q.   How often --</p> <p>19   A.   Huh?</p> <p>20   Q.   How often would your coworkers 21   in maintenance clean it?</p> <p>22   A.   Nowhere near -- Mark Hanks 23   cleaned it once I think.</p>
Page 158	Page 160
<p>1    was supposed to clean the pit.</p> <p>2    Q.   Production was supposed to 3    clean the pit?</p> <p>4    A.   Yes, sir. Like I said, we had 5    radios, but when you get to the pit, you 6    have no communication.</p> <p>7    Q.   Why -- I mean, if somebody 8    from production is supposed to clean the 9    pit, did anybody from maintenance ever clean 10   the pit before you?</p> <p>11   A.   Yes, sir.</p> <p>12   Q.   All right.</p> <p>13   A.   When they would make Prater 14   mad.</p> <p>15   Q.   Okay.</p> <p>16   A.   Or if they made Kevin mad or 17   if they made Jim Brookshire mad or if they 18   made Craig Stapley mad.</p> <p>19   Q.   Those are production guys, 20   Brookshire and Stapley?</p> <p>21   A.   Doesn't mean nothing though. 22   If they told you to go clean the pit, you 23   had to go clean the pit.</p>	<p>1    Q.   Okay.</p> <p>2    A.   Other than that, I don't 3    remember anybody being singled out to go 4    clean it.</p> <p>5    Q.   Did anybody clean it as often 6    as you did?</p> <p>7    A.   No, sir.</p> <p>8    Q.   Did anybody clean it more than 9    you did?</p> <p>10   A.   No, sir.</p> <p>11   Q.   And other than Mark Hanks 12   cleaning it once, can you think of anybody 13   else who had to clean it one or more times?</p> <p>14   A.   Not individually. Sometimes 15   he'd send a whole shift down there once 16   every three or four months to clean it.</p> <p>17   Q.   And is it your testimony the 18   pit got cleaned based purely on somebody 19   like Hughes or Prater or Brookshire or 20   Stapley telling you or your coworkers to go 21   do it?</p> <p>22   A.   Yes, sir.</p> <p>23   Q.   All right. Let's say if you</p>

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<p style="text-align: right;">Page 161</p> <p>1    were working on -- is the -- Are the presses 2    numbered one and two? 3    A.   Yes, sir. 4    Q.   Would your maintenance duties 5    be assigned to either press one or press two 6    on a given shift? 7    A.   There was maintenance 8    personnel on my shift assigned to those 9    presses. That wasn't even my area of 10   responsibility. 11   Q.   Okay. What was your area of 12   responsibility? 13   A.   SOPS. 14   Q.   Okay. 15   A.   When we came in, we was told 16   to get our tool bags, get the brief from the 17   off-going shift, and go to our areas of 18   responsibility. Mark Hanks had to stay on 19   press one, Darrel Gray press two, Drake 20   Barefoot on that other stamping press, I 21   can't remember what it was called, Chris 22   Weihe had to handle ASRS, and I had the 23   SOPS, and Shane was a floater.</p>	<p style="text-align: right;">Page 163</p> <p>1    Q.   And that's five days a week? 2    A.   Sometimes it's seven days a 3    week. 4    Q.   Sometimes seven days a week. 5    A.   We'd work a weekend off, 6    weekend on. Sometimes we might get a Sunday 7    off. I mean, I never cleaned it seven days 8    in a row, no. 9    Q.   Okay. 10   A.   Even after I complained about 11   it. 12   Q.   Did you clean it five days in 13   a row? 14   A.   Fricken Applegate told me 15   don't worry about it, it all pays the same. 16   Q.   Did you ever clean it five 17   days in a row? 18   A.   I may have. I don't know. I 19   mean, I cleaned it so many times so much, I 20   don't know. 21   Q.   Is it your testimony that you 22   cleaned it significantly more than any of 23   your coworkers?</p>
<p style="text-align: right;">Page 162</p> <p>1    Q.   Okay. 2    A.   And I ended up running the 3    SOPS for the production people; I went above 4    and beyond my spectrum of duty. I was 5    supposed to be there for breakdowns. If it 6    broke down, I was supposed to fix it. They 7    was only allowed to run so many parts, like 8    so many Sonata right side outers, they get 9    to running good and they'd run way over 10   their quota. I'd have to go up there and 11   operate the system for them so they could do 12   that. I became instead of -- basically a 13   production worker. And if I hadn't have 14   done it, they wouldn't have ran. So it 15   ain't like I was a slouch. I could have 16   said, no, that's not my scope of duty. I 17   helped out. You can ask production, I even 18   went back there sometimes and I'd help them 19   catch panels if they was getting in a bind. 20   Q.   In your complaint it says you 21   cleaned the pit almost daily some weeks; is 22   that true? 23   A.   Yes, sir.</p>	<p style="text-align: right;">Page 164</p> <p>1    A.   Yes, sir. And they'll tell 2    you that. 3    Q.   Okay. 4    A.   As they told -- I believe -- I 5    don't know, you'd have to ask the lawyer who 6    interviewed the three. 7    Q.   I've talked to him. 8    Anyway, let me ask you this, 9    in paragraph ten it says: Applegate wrote 10   up about each and every action by Prater and 11   Hughes. He stood behind each and every 12   decision they made in running the stamping 13   department and refusing to act on or even 14   investigate complaints to Applegate about 15   Prater and Hughes. 16   We've talked a lot about what 17   Applegate said in terms of it's Prater's 18   department and he runs it. Is there more to 19   that story than you and I have talked about 20   so far? 21   A.   No. Like I said, even if I 22   complained about cleaning the pit all the 23   time, and Applegate asked me, said, what's</p>

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<p>1 it to you, it all pays the same? I said,      2 well, it seems funny after this letter came,      3 all of a sudden I'm cleaning the pit all the      4 time. He said, well, that letter don't have      5 nothing to do with this, it's just a      6 maintenance thing. I said, well, we don't      7 normally clean it. Well, it all pays the      8 same, don't worry about it.</p> <p>9       <b>Q. Did you talk to him about the</b>      10 <b>fact that it's typically production that</b>      11 <b>cleans the pit but they're making</b>      12 <b>maintenance people clean it?</b></p> <p>13       A. Yes, sir.</p> <p>14       <b>Q. And he said he's okay with</b>      15 <b>that --</b></p> <p>16       A. Don't worry about it, it all      17 pays the same.</p> <p>18       <b>Q. In paragraph eleven of your</b>      19 <b>complaint you say that the harassment --</b></p> <p>20       A. Are you ready for chow?</p> <p>21       <b>Q. Not yet.</b></p> <p>22       <b>I mean, if you're ready to go,</b>      23 <b>we'll go.</b></p>	<p>1 the exhibit that came up, was identified      2 initially by Mr. Dees, which had not been      3 previously identified in Mr. Dees' discovery      4 responses by Mr. Dees or his counsel. Once      5 it was identified by Mr. Dees during his      6 deposition, we were able to contact the      7 Hyundai plant and have it faxed to the court      8 reporter's office. We've now marked it as      9 Defendant's Exhibit 4 and provided a copy to      10 Mr. Dees' lawyers, who had not identified it      11 previously.</p> <p>12       MR. KILBORN: I also note for      13 the Record that the letter that Sergeant      14 Barnes wrote has not been produced, which is      15 a key letter in this case. And we've asked      16 that it be produced, that a search be made      17 for it. That's a letter identified in      18 Franklin D. Barnes Dees 00002 dated March      19 26, 2007.</p> <p>20       MR. JOHNSON: Is that all?</p> <p>21       MR. KILBORN: That's it. Go      22 ahead.</p> <p>23       <b>Q. Mr. Dees, we're going back on</b></p>
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<p>1       A. I'm hungry.</p> <p>2       MR. JOHNSON: Y'all ready to      3 take a break?</p> <p>4               (Recess taken.)</p> <p>5       MR. KILBORN: I want to mark      6 this as --</p> <p>7       MR. JOHNSON: It's marked as      8 Exhibit 4.</p> <p>9               (Whereupon, Defendant's      10              Exhibit No. 4 was marked      11              for identification.)</p> <p>12       MR. KILBORN: Defendant's      13 Exhibit 4 was just produced about ten      14 minutes after one, during Leon Dees's      15 deposition; it should have been produced      16 before. It's obviously on the subject of      17 Guard duty; it's obviously on the subject of      18 human resources; and on the subject of Leon      19 Dees. And I've asked -- I've told counsel I      20 want to redepone Wendy Warren on the subject      21 matter of this e-mail.</p> <p>22       MR. JOHNSON: Just for the      23 Record, with respect to Exhibit 4, this was</p>	<p>1 <b>the Record. I've got a couple of questions</b>      2 <b>to ask you.</b></p> <p>3       We've now marked an exhibit      4 that you mentioned previously in your      5 deposition, that we've gone back and gotten,      6 we've marked as Exhibit Number 4. I know      7 that you and your lawyers have had an      8 opportunity to review that exhibit; is that      9 accurate?</p> <p>10       A. Yes, sir.</p> <p>11       <b>Q. Okay. And is that, in fact,</b>      12 <b>the e-mail that you testified to prior to</b>      13 <b>our lunch break?</b></p> <p>14       A. This is it.</p> <p>15       <b>Q. Okay.</b></p> <p>16       A. 6 February '07. I asked      17 Mr. Kimball for a meeting, because, like I      18 said, both times I even had to file the      19 complaint through my unit. And after      20 positive results, meeting the first time, we      21 went there, Prater told us we couldn't talk      22 to HR. My unit stayed abreast of the      23 meeting, and it would die back down for a</p>

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<p>1 week, and then everything else would kick      2 back up. Nothing changed over all. I'm      3 currently working night shift, and we would      4 greatly appreciate a meeting at your      5 convenience. And a week or two later I was      6 fired.</p> <p>7 Q. Now, if I could just look at      8 that. Again, this e-mail was sent on      9 February 6th of '07, does that sound right      10 to you?</p> <p>11 A. Yes, sir.</p> <p>12 Q. At that time, do you know      13 whether Greg Kimball was actively employed      14 or on leave from the plant?</p> <p>15 A. No one had told us he wasn't      16 there. Like I said, I worked night shift.</p> <p>17 Q. Did you know him personally?</p> <p>18 A. Did I know him personally?      19 You mean away from the plant?</p> <p>20 Q. No. I mean, did you know him?      21 You'd know him if he walked into the room      22 and talked to him?</p> <p>23 A. Yes, sir.</p>	<p>1 A. Yes, sir.      2 Q. Was that a meeting -- Was that      3 the year before you got terminated in that      4 fall period that you testified to?      5 A. Yes, sir.      6 Q. Okay. And where did that      7 meeting take place?      8 A. In Greg Kimball's office.      9 Q. Okay. And am I right that      10 neither you nor Greg Kimball produced      11 anything in writing after that meeting?      12 A. No, sir.      13 Q. And one of the things that it      14 says here on Defendant's Exhibit Number 4,      15 you'd indicate issues that have arisen on my      16 shift between Greg Prater, Kevin Hughes, and      17 yourself. What was the issue with Kevin      18 Hughes?      19 A. Like I stated earlier, Kevin      20 had a history of jumping on employees.      21 And --      22 Q. And when you say jumping on      23 employees, was that having to do with</p>
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<p>1 Q. Had you talked to him before?      2 A. Yes, sir.      3 Q. Had you talked to him      4 previously about any issues you may have had      5 with Greg Prater?      6 A. It wasn't Prater specifically.      7 Like I said before, he was the very first      8 person I talked to when I went to HR.      9 Q. Okay. But you didn't talk to      10 him about Prater specifically?      11 A. Well, about Prater and      12 Applegate and having a problem with my Guard      13 duty, yes, sir, I did.      14 Q. Okay. And what -- And I'm      15 just trying to think back to what we talked      16 about earlier this morning. I want to make      17 sure I'm right. That was what you had      18 testified to earlier, the year before you      19 got fired in the -- I think you testified in      20 the fall?      21 A. Do what now?      22 Q. The meeting -- That first      23 meeting you had with Greg Kimball.</p>	<p>1 military duty or just his style of      2 management?      3 A. His style of management. I      4 mean, he had -- he had jumped on two or      5 three other employees, one of them twice.      6 He'd get up in their face and holler at them      7 and bow up on them and intimidate them. And      8 he did the same thing to me, and I asked      9 him, I said: Are you bowing up on me? And      10 he made some comment, and I turned around      11 and I left.      12 Q. Now, did that have anything to      13 do with your military service or your      14 reserve duties or anything like that?      15 A. That particular incident? I      16 -- I don't know. After the letter came in,      17 and I started having all these problems is      18 when Kevin started -- I mean, that's when he      19 started birddogging me.      20 Q. When who started birddogging      21 you?      22 A. Kevin Hughes.      23 Q. When did that start?</p>

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<p style="text-align: right;">Page 173</p> <p>1 A. After -- Like I said, after my 2 letter from the unit came in. 3 Q. Okay. That's the letter from 4 Sergeant Barnes? 5 A. Yes, sir. 6 Q. Do you remember when that 7 letter came in? 8 A. As I stated earlier, no, sir. 9 Q. Do you recall who it was sent 10 to specifically? 11 A. Yes, sir. Like I stated 12 before, Greg Kimball. 13 Q. Okay. Did you ever talk to 14 Greg Kimball about whether or not he'd 15 actually gotten that letter? 16 A. No, sir, I did not. 17 Q. Do you have any evidence that 18 Greg Kimball or anybody else in Hyundai 19 management received the letter? 20 A. I said just John Applegate 21 saying: Don't worry about that letter, 22 we've seen it, something to that effect. I 23 don't remember exactly what his words were,</p>	<p style="text-align: right;">Page 175</p> <p>1 A. No, sir. The two separate 2 occasions was what it says, it was two 3 separate occasions. 4 Q. But I'm trying to figure out 5 when those two separate occasions were and 6 who were they with? 7 A. What do you mean? 8 Q. On February 6th you basically 9 say you had two separate occasions that you 10 had discussions with human resources; right? 11 A. Yes, sir. 12 Q. Okay. I want -- I'm just 13 trying to figure out if we can pin down when 14 those were and who you talked to. 15 A. It's like I stated earlier 16 this morning, I don't know the exact dates. 17 That was over a year ago. No, I don't. I 18 don't know specific dates, times, no, sir. 19 Q. Do you recall who they were 20 with? 21 A. Like I stated this morning, 22 the first meeting was with Greg Kimball -- 23 Q. Okay. That's one.</p>
<p style="text-align: right;">Page 174</p> <p>1 but, yeah, he admitted the letter was there. 2 Q. Do you remember when he said 3 that? 4 A. I think it was the second 5 meeting I had with him. I don't remember. 6 Q. Second meeting with Applegate? 7 A. Yeah. I mean, I don't know to 8 be honest. I can't say either way. 9 Q. How many meetings did you have 10 with Applegate? 11 A. I don't know. Two, three. 12 Whatever I said this morning. 13 Q. Okay. In your letter to Greg 14 Kimball that we've marked as Exhibit 4 you 15 say: I have talked to human resources on 16 two separate occasions regarding Greg Prater 17 and also filed a complaint on him through my 18 National Guard unit. 19 A. Yes, sir. 20 Q. Were the two separate 21 occasions the one time that you talked to 22 Greg Kimball and then when you talked to 23 Keisha?</p>	<p style="text-align: right;">Page 176</p> <p>1 A. -- in HR, and the last two I 2 believe was with Keisha. 3 Q. Okay. So other than Greg 4 Kimball and Keisha, you don't recall having 5 discussions with anybody in HR? 6 A. No, sir. 7 Q. No, sir, I'm wrong or no, sir, 8 you didn't have meetings with anyone else? 9 A. No, sir, I don't recall having 10 meetings with anyone else in HR. 11 Q. And did Keisha ever say 12 anything to you that in any way demeaned or 13 insulted your prior uniformed service? 14 A. No, sir. 15 Q. Do you have any reason to 16 think that Keisha in any way influenced the 17 decision to terminate your employment? 18 A. I have no idea who had any -- 19 I don't know. You're standing at work, 20 somebody comes up and tells you you're 21 fired, I mean -- 22 Q. Let me ask you this: Do you 23 have any information to suggest who was</p>

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<p style="text-align: right;">Page 177</p> <p>1 involved in the decision to terminate your 2 employment?</p> <p>3 A. Rephrase.</p> <p>4 Q. Do you have any knowledge as 5 to who was involved in the decision to 6 terminate your employment?</p> <p>7 A. Nope. I mean -- No.</p> <p>8 Q. Do you know whether Greg 9 Prater was involved?</p> <p>10 A. Well, I read statements that 11 he wrote.</p> <p>12 Q. Other than the statements that 13 he wrote --</p> <p>14 A. And he told the coworkers that 15 he did the investigation and it was his 16 decision.</p> <p>17 Q. Okay. Who did he say that to?</p> <p>18 A. My shift. But, they also said 19 that -- I believe it was that -- I don't 20 know, how was it phrased?</p> <p>21 He didn't make the actual -- 22 He can only make a recommendation. The 23 actual decision had to come from HR.</p>	<p style="text-align: right;">Page 179</p> <p>1 Q. What routine?</p> <p>2 A. Of getting harassed, are you 3 going to duty this weekend? Where is your 4 orders? Are you coming back Monday? Do you 5 have my orders? You're going to get wrote 6 up if you miss work.</p> <p>7 Q. Did Greg Prater ever do 8 anything other than demand to see orders or 9 suggest that he was going to write you up if 10 you missed work?</p> <p>11 A. As in?</p> <p>12 Q. You tell me. I just want to 13 know what he did.</p> <p>14 A. I mean, other than hounding me 15 about my orders, harassing me about my duty, 16 HR and Applegate and basically team 17 relations and everyone backing him up, that 18 was pretty much enough.</p> <p>19 Q. Okay. So would it be fair to 20 state that that's all that Greg Prater did 21 or that Applegate or HR did with respect to 22 your service?</p> <p>23 A. Well, yeah, I reckon.</p>
<p style="text-align: right;">Page 178</p> <p>1 Q. Okay. And do you know who in 2 HR was involved in that decision-making 3 process?</p> <p>4 A. No, sir, I do not.</p> <p>5 Q. Also on Exhibit 4 it indicates 6 here that -- or you say: There have been 7 positive results from both meetings and once 8 again I am seeking your help.</p> <p>9       What were the positive results 10 that came from --</p> <p>11 A. Well, the first time Prater 12 said: Y'all can't go to HR, that's not in 13 your chain of command.</p> <p>14 Q. Okay.</p> <p>15 A. And I -- Everything with me 16 was military term acronyms, because that's 17 all I've ever known, that's how I live my 18 life. And HR jumped all over him. Like I 19 said, that was only for their benefit.</p> <p>20 Said, yeah, you can talk to us any time you 21 want. And everything calmed down for a few 22 days or a week, but then same old routine 23 kicked in.</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. Okay. Now, let's look at 2 paragraph twelve of your complaint. And I'm 3 going to mark --</p> <p>4 MR. SPORT: Matt, do you have 5 another copy of that?</p> <p>6 MR. JOHNSON: Yeah. I'm 7 getting it. Hang on.</p> <p>8 Q. I'm going to mark as Exhibit 5 9 a fax cover letter and a letter --</p> <p>10                   (Off-the-Record discussion 11                   was held.)</p> <p>12                   (Whereupon, Defendant's 13                   Exhibit No. 5 was marked 14                   for identification.)</p> <p>15 Q. All right. Mr. Dees, in 16 paragraph twelve of your complaint it 17 references an October 23, 2006, letter from 18 Sergeant Franklin Barnes --</p> <p>19 A. I said on or about October 23.</p> <p>20 Q. On or about October 23, 2006, 21 Franklin Barnes, of Dees' Guard unit wrote a 22 letter of instruction to the human resources 23 department at Hyundai. And if you look at</p>

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<p style="text-align: center;">Page 181</p> <p>1 what we've marked as Exhibit 5, that is      2 apparently a letter from Sergeant Barnes --      3 it says it's a memorandum for Record.      4 Are you aware of anything else      5 that Sergeant Barnes produced that was      6 produced to Hyundai?</p> <p>7 A. No, sir.</p> <p>8 Q. And let me -- I won't --</p> <p>9 A. This is not the actual letter      10 because he didn't keep a copy of the actual      11 letter. This is in reference to what he had      12 stated -- basically stated.</p> <p>13 Q. Okay. And let me make sure      14 and --</p> <p>15 A. On or about 23 October, that's      16 a military term, if you're not sure of the      17 date, exact date, that's what we use.</p> <p>18 MR. JOHNSON: Okay. And let      19 me make sure, Mr. Kilborn or Mr. Sport,      20 we've definitely got one and two here, and I      21 don't want to -- if I'm overlooking or      22 misunderstanding, the 10/23 letter --</p> <p>23 MR. SPORT: We have not</p>	<p style="text-align: center;">Page 183</p> <p>1 department?</p> <p>2 A. Yes, sir. It's not the exact      3 same letter, no. Sergeant Barnes didn't      4 keep a copy of the letter that was sent.</p> <p>5 Q. Did he send a copy to you?</p> <p>6 A. No, sir. I didn't ask him to.</p> <p>7 Q. Well, regardless of what you      8 asked him to do, did he send one?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. Do you know if he sent      11 one to anybody else?</p> <p>12 A. No, sir.</p> <p>13 Q. And you -- Do you know if -- I      14 want to make sure I understand. Did he keep      15 a copy and lost it or did he not keep a copy      16 to your knowledge?</p> <p>17 A. To my knowledge, he did not      18 keep a copy.</p> <p>19 Q. Okay.</p> <p>20 A. And it not being an official      21 government document, he wasn't required to      22 keep a copy.</p> <p>23 Q. Okay. Then is it your</p>
<p style="text-align: center;">Page 182</p> <p>1 produced it because we don't have a copy of      2 it.</p> <p>3 MR. JOHNSON: Okay.</p> <p>4 MR. SPORT: It's our      5 understanding that Mr. Barnes cannot locate      6 a copy of it. Based on his notes, and it      7 would roughly correspond, I believe, to      8 Mr. Dees' drill date of that month, that      9 that's when he wrote the letter. And based      10 on that, we're requesting that letter from      11 human resources.</p> <p>12 MR. JOHNSON: All right.</p> <p>13 So --</p> <p>14 MR. SPORT: Is that what you      15 were asking?</p> <p>16 MR. JOHNSON: I think so.</p> <p>17 Thank you.</p> <p>18 MR. SPORT: Okay.</p> <p>19 Q. So, Mr. Dees, it's at least my      20 understanding that what we've got here as      21 Exhibit 5, that's different from the letter      22 we were talking about earlier that was sent      23 by Mr. Barnes to the human resources</p>	<p style="text-align: center;">Page 184</p> <p>1 testimony it wasn't an official government      2 document?</p> <p>3 A. It was a letter -- When you      4 have a problem, you go to your unit.</p> <p>5 Q. Okay. And he was actually      6 your subordinate in the unit; correct?</p> <p>7 A. Yes, sir. But he's the full      8 time AGR person, so it's his job to take      9 care of stuff like that.</p> <p>10 Q. Okay. Did you ask anyone who      11 you were subordinate to to write you a      12 letter like that?</p> <p>13 A. No, sir, I did not. I went to      14 the unit, I talked to Sergeant Barnes.</p> <p>15 Sergeant Barnes called Sergeant Richberg my      16 superior. Sergeant Richberg was the senior      17 man, he's retired now, that was off Sergeant      18 Richberg's recommendations.</p> <p>19 Q. Okay. Tell me Sergeant      20 Richberg's full name?</p> <p>21 A. Wendell Richberg.</p> <p>22 Q. And do you know where he      23 lives?</p>

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1 A. Anniston. 2 Q. Anniston. Have you spoken to 3 him since this lawsuit was filed? 4 A. Friday night. 5 Q. Okay. Did y'all talk about 6 this lawsuit? 7 A. No, sir. 8 Q. Did you talk about your 9 deposition at all? 10 A. No, sir. 11 Q. Okay. What about Sergeant 12 Barnes, do you still talk to him? 13 A. Every month at Guard. He 14 works for me. 15 Q. At Guard duty. Okay. And, 16 again, going back to Exhibit 5 that we've 17 marked today, is the second page of that a 18 memo that you're familiar with? 19 A. The actual letter? 20 Q. Yes. 21 A. Yes, sir. 22 Q. You're familiar with that? 23 A. I read it once.	1 Q. He retyped this memo? 2 A. I'm just assuming. Like I 3 said, you'll have to ask Sergeant Barnes 4 this information. 5 Q. Okay. 6 A. I'm not going to sit here and 7 answer for him because I don't know. 8 Q. I want to know what you know. 9 Do you know whether or not this is a retyped 10 memorandum or something he'd done -- 11 A. No, sir, I do not know. Like 12 I stated, I do not know. You'll have to ask 13 Sergeant Barnes, and he'll be glad to talk 14 to you. 15 Q. Do you know where this copy 16 came from? 17 A. Sergeant Barnes. It's got his 18 signature on it. 19 Q. So I'm assuming Sergeant 20 Barnes kept a copy of this one? 21 A. Apparently so. I don't know 22 that for sure either. I'm not going to say either way.
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1 Q. Did you read it before 2 Sergeant Barnes sent it? 3 A. No, sir, I do not. 4 Q. Do you know if Sergeant Barnes 5 sent it to anybody? 6 A. Sergeant Barnes told me that 7 he sent it to Greg Kimball. 8 Q. He said he sent it to Greg 9 Kimball? 10 A. Yes, sir. 11 Q. Did he indicate he had sent it 12 to anybody other than Greg Kimball? 13 A. No, sir. 14 Q. Did he send a copy to you? 15 A. No, sir. 16 Q. I assume he saved a copy of 17 this? 18 A. No, sir. 19 Q. Do you know where this -- this 20 copy came from? 21 A. Sergeant Barnes retyped it. 22 You'll have to ask Sergeant Barnes this 23 info. This, I do not know.	1 Q. And not a copy of the other 2 one? 3 A. Well, the other one shouldn't 4 have been a problem. He has to do it for 5 civilian law enforcement officers. I mean, 6 he didn't think nothing about it. 7 Q. Did you ask him to prepare 8 this Exhibit Number 5? 9 A. I asked him if he had a copy 10 of the letter he sent. He said he would 11 check and see. And he said he did not have 12 a copy. I said, look, what did you write? 13 I said I need a letter about what you said, 14 and that's what he produced. Anything other 15 than that, you'll have to ask Sergeant 16 Barnes. 17 Q. Okay. So from what you're 18 telling me, either he told you he couldn't 19 find one, and then he found it -- 20 A. No, sir. He did not find it. 21 I never said he found it. I said he did not 22 find it. 23 Q. Okay. That's fine.

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1        To your knowledge, was this 2 done on March 26th originally? 3        A. I have no idea. 4        Q. Okay. Do you have any idea 5 when he initially prepared it? 6        A. No, sir. 7        Q. All right. And was -- The 8 first page of Exhibit 5 is to Mrs. Dees, I 9 assume that's your wife? 10      A. Yes, sir. 11      Q. Was this faxed to some fax 12 numbers of hers or at her office somewhere? 13      A. Yes, sir. 14      Q. Did you ask Sergeant Barnes to 15 send it to your wife? 16      A. Yes, sir. 17      Q. And was it at her office? 18      A. Yes, sir. 19      Q. Where does she work? 20      A. Peachtree Bank in Maplesville, 21 Alabama. 22      Q. So to your knowledge, Sergeant 23 Barnes sent this to her bank?	1        A. I don't know. 2        Q. Okay. Do you know if Sergeant 3 Barnes ever called Hyundai's HR department 4 for any reason? 5        A. Not to my knowledge. 6        Q. Okay. Had you provided him 7 with Greg Kimball's name? 8        A. Yes, sir. 9        Q. Did you provide him with Greg 10 Kimball's address or fax number or anything 11 like that? 12      A. Address to the plant. 13      Q. Just the plant address? 14      A. Yes, sir. Attention Greg 15 Kimball. 16      Q. Okay. In paragraph thirteen 17 of your complaint you say: After the letter 18 from Sergeant Barnes was sent to Hyundai, 19 the incidences of harassment outlined above 20 escalated. 21      Let me ask you that: Is that 22 accurate? 23      A. Yes, sir.
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1        A. Yes, sir. 2        Q. And did she bring it home to 3 you? 4        A. Yes, sir. 5        Q. And it looks like it was faxed 6 on March 26th; is that accurate? 7        A. Yes, sir. 8        Q. And do you recall whether that 9 was when you got it or not? 10      A. Yeah. She got it that day, 11 she brought it home that evening, yes, sir. 12      Q. All right. Had you talked to 13 Sergeant Barnes that day? 14      A. I don't know. I don't know. 15      Q. Okay. Do you remember talking 16 to Sergeant Barnes asking him to send you 17 some sort of memorandum for the Record or 18 something telling what he had done in the 19 past? 20      A. Yes, sir. 21      Q. Did he fax this to you on the 22 same day or did this take place at a later 23 time?	1        Q. How did they escalate? 2        A. I mean, it went from every 3 other day I was being called on the carpet. 4 I mean -- 5        Q. Called on the carpet for what? 6        A. Anything he could make up, 7 they could make up, everything. 8        Q. What would they make up? 9        A. The daily reports, and I 10 believe that was in there somewhere, where I 11 didn't turn in my daily report where I 12 actually filled it out but I worked over, 13 and it was still in the book, I just didn't 14 drop it off in the box. And I was being 15 threatened on a write-up when there were 16 several other team members on both shifts 17 who hadn't turned in a daily report in over 18 a month. That was just one example. 19        Q. Well, during that period, were 20 -- were you ever suspended for any reason? 21        A. No, sir. They ignored their 22 whole firing process. I was never written 23 up, to my knowledge.

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<p style="text-align: right;">Page 193</p> <p>1       <b>Q.</b> Okay.</p> <p>2       A. They went against their own 3 program, their own handbook, their own 4 system.</p> <p>5       <b>Q.</b> Okay. Just so I understand, 6 how did they do that?</p> <p>7       A. Well, supposedly there's a 8 system, a process, you have to go through to 9 get fired. Several steps in between. I 10 went from zero to fired.</p> <p>11     <b>Q.</b> So when you say they 12 disregarded the steps, you're talking about 13 your termination?</p> <p>14     A. Their own firing process. 15 It's not my termination. That's their 16 process that they came up with, that they 17 said they would abide by that they threw out 18 the window.</p> <p>19     <b>Q.</b> Okay. Also in paragraph 20 thirteen you say that on or about February 21 26, 2007, Prater got the stamping manager, 22 Jim Brookshire to falsely accuse Dees of 23 sleeping on the job.</p>	<p style="text-align: right;">Page 195</p> <p>1       <b>Brookshire to make those allegations?</b> 2       A. Well, I mean -- I'm not sure 3 how he -- what went on. I know I was 4 standing up there in my area that I was 5 supposed to be in, with one of my coworkers, 6 who had left me standing out there in plain 7 site on a wire mesh floor where everybody 8 can see, not five minutes before I was 9 accused of sleeping. And I read Will Ware's 10 statements where Jim Brookshire said he 11 never saw my eyes closed. And the next 12 thing I know, I'm getting fired for sleeping 13 on duty. If I sleep on duty, he's saying 14 this ain't a military thing, he was always 15 referring to military things, every time 16 someone talked to me, they put it in a 17 military perspective. If I didn't live my 18 life in a military manner, why would they do 19 that? If I sleep on duty on post, I die. 20 That's not the most important thing. If I 21 sleep on duty on post, my men die, that's 22 the most important thing. I live my 23 civilian life just like I do my military</p>
<p style="text-align: right;">Page 194</p> <p>1       A. February 26th was the day I 2 was terminated. I believe, like you said, 3 it was the 19th. I'm not sure, it was the 4 week before that.</p> <p>5       <b>Q.</b> Okay. So you put -- Do you 6 know why it says the 26th? Is it for any 7 reason other than that's the day you were 8 terminated?</p> <p>9       A. Yes, sir.</p> <p>10     <b>Q.</b> Do you have any personal 11 knowledge that Greg Prater tried to get Jim 12 Brookshire to say that you were sleeping?</p> <p>13     A. I don't know. Prater wasn't 14 even there that night. It was Jim 15 Brookshire.</p> <p>16     <b>Q.</b> So you agree Prater wasn't 17 even there that night?</p> <p>18     A. No, he wasn't. It was on a 19 night shift.</p> <p>20     <b>Q.</b> Okay. So if Greg Prater 21 wasn't at the plant the night that Jim 22 Brookshire made the allegations, how is it 23 that you say that Prater tried to convince</p>	<p style="text-align: right;">Page 196</p> <p>1       life. Just because for the same reason -- 2 Just like is fixing to happen next year, I 3 am going back to Iraq. If I slough off in 4 my civilian life, I slough off in my 5 military life. I don't do that.</p> <p>6       <b>Q.</b> Okay. Let me ask you this: 7 Do you know the night that Jim Brookshire 8 allegedly made the allegations he saw you 9 sleeping?</p> <p>10     A. Yes. I don't remember the 11 exact date. I think it was around the 19th. 12 But the exact incident, yes, sir, I remember 13 it.</p> <p>14     <b>Q.</b> So you know the incident?</p> <p>15     A. Yes, sir.</p> <p>16     <b>Q.</b> And you agree Greg Prater 17 wasn't on duty that night?</p> <p>18     A. No, sir, he was not.</p> <p>19     <b>Q.</b> Wasn't at the plant?</p> <p>20     A. No, sir.</p> <p>21     <b>Q.</b> Do you even know whether he 22 worked the next day?</p> <p>23     A. I don't know.</p>

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<p>1       Q. Okay. Do you know whether --  2     Do you have any evidence to suggest that he  3     and Jim Brookshire had talked before that  4     night about accusing you of something?  5       A. If I had it, you would have  6     it.</p> <p>7       Q. Okay. So, but, again, I just  8     want to make sure. Okay?</p> <p>9       A. Like I say, you're the one  10    that's talked to them. You'll have to go  11    ask them.</p> <p>12      Q. Let me ask you this: You're  13    not aware of any evidence to suggest Greg  14    Prater told Jim Brookshire to make up some  15    allegations before that night, and Greg  16    Prater wasn't there that night, and you  17    don't know whether Greg Prater even worked  18    the next day, what evidence do you have to  19    suggest that Greg Prater told Jim Brookshire  20    what to do, or when to do it, or how to do  21    it?</p> <p>22      A. I don't have any evidence of  23    Prater and Jim corroborating or whatever you</p>	<p>1     the evening in question?  2       A. Yes, sir.  3       Q. All right. How is it you know  4     when Jim Brookshire made those allegations?  5       A. I saw him and Kevin Hughes  6     standing down on the floor pointing up at me  7     and Shane.</p> <p>8       Q. Pointing up at you where?  9       A. Up in my area of  10    responsibility. They said that I was  11    supposedly sleeping up in the SOPS. It's  12    about -- It's what they call the third  13    floor. And there's an open wire mesh floor  14    right there. You can't hide. And Shane  15    walked downstairs, and I let my guard down.  16    I had a brain cramp. And it wasn't five  17    minutes, here come Jim walking up the  18    stairs, walking around the back, looked over  19    at me about fifty foot away, walked down,  20    looked out over the presses, came back,  21    looked at me again. I watched him, I  22    watched him walk all the way back down the  23    stairs. When he did, I got up and walked</p>
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<p>1     want to call it.</p> <p>2       Q. Okay. Well, you would agree  3     that that's not consistent with what's  4     contained in your complaint?</p> <p>5       A. Did Prater and Brookshire  6     stick together on everything? Yes.</p> <p>7       Q. In other words, they're  8     consistent?</p> <p>9       A. Yeah. I mean, if Prater said  10    something, Brookshire backed him up;  11    Brookshire said something, Prater backed him  12    up.</p> <p>13      Q. Okay. But where you've  14    indicated in your complaint that Prater got  15    the production staffing manager, Jim  16    Brookshire, to falsely accuse Dees of  17    sleeping on the job, what evidence do you  18    have that Prater did that?</p> <p>19      A. Like I said before, I don't  20    have none. If I did, you'd have it.</p> <p>21      Q. Okay. Thank you.  22       And am I correct that on the  23    evening of -- Well, you indicated you know</p>	<p>1     downstairs.</p> <p>2       Q. Okay. Were you sitting down?  3       A. Yes, sir, I was. I was trying  4     to text message my daughter.</p> <p>5       Q. You were text messaging your  6     daughter?</p> <p>7       A. I was trying to, yes, sir, I  8     was.</p> <p>9       Q. So you had your phone in your  10    hand?</p> <p>11      A. Yes, sir, I did.</p> <p>12      Q. Were you looking down into  13    your lap at the phone? Or how did you have  14    your phone?</p> <p>15      A. I had my phone right here  16    (indicating). Like I said, I watched him  17    walk up the stairs, and I watched him. We  18    made eye contact, he kept walking. So I  19    went back to text messaging. He come back,  20    I looked up at him again, and I watched him  21    walk all the way down. I closed my phone, I  22    got up, and I went down.</p> <p>23      Q. Did you actually send someone</p>

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<p style="text-align: right;">Page 201</p> <p>1   <b>a text message?</b>      2   A. I tried. No, I couldn't get      3   out.      4   <b>Q. What do you mean you couldn't      5   get out?</b>      6   A. Depending on the weather and      7   where you was at, sometimes you could get a      8   good signal in the plant and sometimes you      9   couldn't.      10   <b>Q. Would there be any records to      11   support whether or not you actually made a      12   text message that evening?</b>      13   A. I've got my phone bill, but,      14   no, I told you, I didn't get out.      15   <b>Q. Okay. So is it your testimony      16   you had the phone in your hand, you were      17   pressing buttons, but nothing was happening?</b>      18   A. Pretty much it.      19   <b>Q. Were you wearing a hard hat?</b>      20   A. No, sir. We wear ball caps      21   with a little plastic insert. And it was      22   sitting on the spool beside me, spool of      23   cable.</p>	<p style="text-align: right;">Page 203</p> <p>1   A. No, sir. They wear a ball      2   cap, what they call a bump cap, little      3   plastic insert.      4   <b>Q. Okay. And during the period      5   in which you saw Jim Brookshire up on that      6   third floor, I mean, you saw Jim Brookshire      7   on the third floor?</b>      8   A. Yes, sir. I watched him walk      9   up, around, and back down.      10   <b>Q. Was this after Shane Archer      11   had left?</b>      12   A. About five minutes after Shane      13   left.      14   <b>Q. Five minutes. Do you recall      15   it being five minutes? That was a long time      16   ago.</b>      17   A. It wasn't long. Like I said,      18   me and Shane had just been standing there      19   wondering why they were standing down on the      20   floor pointing up at us talking.      21   <b>Q. Okay. Do you remember what      22   time it was you saw them down on the floor      23   pointing up at you?</b></p>
<p style="text-align: right;">Page 202</p> <p>1   <b>Q. So you were not wearing a ball      2   cap?</b>      3   A. No, sir.      4   <b>Q. Were you wearing any sort of      5   eye protection or anything like that?</b>      6   A. They were in my hard hat.      7   <b>Q. Hard hat or ball cap?</b>      8   A. Ball cap.      9   <b>Q. Did you have a hard hat with      10   you?</b>      11   A. No. They don't wear hard      12   hats.      13   <b>Q. They don't wear them anywhere?</b>      14   A. Not to my knowledge, no.      15   <b>Q. In the whole plant?</b>      16   A. Some people may, but I was      17   stuck in my section, I don't know.      18   <b>Q. And your section was      19   somewhere?</b>      20   A. Stamping maintenance.      21   <b>Q. So to your knowledge, in      22   Stamping maintenance they don't wear hard      23   hats?</b></p>	<p style="text-align: right;">Page 204</p> <p>1   A. It was before chow.      2   Everything happened before chow that night.      3   <b>Q. What time is chow?</b>      4   A. I believe it was -- I think it      5   was eleven thirty that night, eleven thirty      6   or eleven forty-five.      7   <b>Q. What time did you get to work?</b>      8   A. I don't know. You would have      9   to -- Y'all got that.      10   <b>Q. What time did you usually      11   start?</b>      12   A. It depended whether I was      13   coming in early that night or late that      14   week.      15   <b>Q. What's the latest you would      16   have gotten there?</b>      17   A. I believe it was six or seven.      18   <b>Q. P.m.?</b>      19   A. I think.      20   <b>Q. Okay. And starting at six or      21   seven, whenever you got there --</b>      22   A. Six to four forty-five and      23   seven to five forty-five.</p>

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<p>1       <b>Q.</b> All right.      2       A. But we always had to be there      3       early.      4       <b>Q.</b> So you would have been there      5       sometime slightly before six or seven?      6       A. Yes, sir.      7       <b>Q.</b> All right. So you get there a      8       little bit before six or seven. Do you go      9       to the -- is there an office for stamping      10      maintenance?      11      A. That's where our lockers are      12      at.      13      <b>Q.</b> All right. So would you      14      usually go to your locker first?      15      A. Yes, sir.      16      <b>Q.</b> All right. Do you remember      17      doing that on the night in question?      18      A. I did it every night. That's      19      where my tools was locked up.      20      <b>Q.</b> So you would go get your tools      21      to start the day?      22      A. Yes, sir.      23      <b>Q.</b> And on the evening in</p>	<p>1       A. Second and third floor.      2       <b>Q.</b> Second and third floor.      3       A. And if they was running them,      4       it could be on the first floor too.      5       <b>Q.</b> All right. Did you go to the      6       second floor that night?      7       A. Right off the bat?      8       <b>Q.</b> Yeah.      9       A. Probably not. I probably went      10      and got the brief from the off-going shift.      11      <b>Q.</b> What is that? Is that      12      something telling you what to do?      13      A. Like I said earlier this      14      morning, we go get our tools, go talk to      15      people on the off-going shift, find out if      16      there's any breakdowns, anything, any major      17      events we needed to know about or look out      18      for.      19      <b>Q.</b> How long does that usually      20      take?      21      A. If nothing happened, two      22      seconds. Give me your radio. Bye, y'all      23      take it easy.</p>
<p style="text-align: center;">Page 206</p> <p>1 question, did you go immediately from      2 getting your tools to a meeting with Greg      3 Prater or Kevin Hughes or anybody like that?      4 What did you do?      5 A. We didn't have meetings.      6 <b>Q.</b> Okay.      7 A. We'd get our tools and --      8 <b>Q.</b> How did you know what to do?      9 A. I mean, it's just standard.      10 Everybody -- We'd come in, we'd get our      11 tools, we'd go to work. I mean --      12 <b>Q.</b> But how did you --      13 A. -- that was the norm.      14 <b>Q.</b> How did you know what to work      15 on?      16 A. We didn't work on nothing. If      17 nothing wasn't broke down, we would go to      18 our area of responsibility.      19 <b>Q.</b> So you would just go to an      20 area that you were responsible for?      21 A. An area I was assigned.      22 <b>Q.</b> And that was the SOP section      23 up on third floor?</p>	<p style="text-align: center;">Page 208</p> <p>1       <b>Q.</b> Would you share a radio with      2       the off-going shift?      3       A. Yes, sir.      4       <b>Q.</b> Do you know who your      5       counterpart is on the off-going shift or who      6       was on the evening in question?      7       A. They didn't really have      8       assigned areas like we did, I don't think.      9       I mean, it would be different people.      10      Sometimes it would be Duane Tatum, or      11      sometimes it would be Lance Honeycutt, or --      12      I can't remember the other guy's name.      13      <b>Q.</b> All right. Well, that's okay.      14      Once y'all sort of made the      15      shift change and talked with the off-going      16      guys, you would go to your work area;      17      correct?      18      A. Yes, sir.      19      <b>Q.</b> And on the evening in      20      question, you think that would have been      21      immediately up to the third level?      22      A. Maybe not. Not if they was      23      running. If they was running, we would be</p>

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<p>1 over at the press and see how they were  2 running and make sure the trolleys were  3 switching out right.</p> <p>4       <b>Q. Do you remember what you did?</b></p> <p>5       A. No.</p> <p>6       <b>Q. You can't remember?</b></p> <p>7       A. I remember the weather was bad  8 that night. There had been a couple of  9 nights that week the weather was bad, so I  10 don't -- several nights we had to go to the  11 storm shelters, like the pit and bathrooms,  12 because of the weather. So, no.</p> <p>13      <b>Q. Do you remember having to go  14 to the storm shelter on the evening we're  15 talking about?</b></p> <p>16      A. I don't know if it was that  17 evening or a couple of evenings before.</p> <p>18      <b>Q. Okay. Do you remember when  19 you first went up to the third level on the  20 evening we're talking about?</b></p> <p>21      A. Me and Shane went up there --  22 at the time the incident occurred, me and  23 Shane had gone up there because we had to</p>	<p>1 got the system back online.</p> <p>2       <b>Q. How long did that take?</b></p> <p>3       A. Not long. I don't know to be  4 honest.</p> <p>5       <b>Q. Okay. And so when you got the  6 trolleys back online, is that when Shane  7 Archer went downstairs?</b></p> <p>8       A. After we talked about Jim and  9 Kevin pointing up at us talking.</p> <p>10      <b>Q. Okay. So you and Shane Archer  11 had a conversation where y'all talked about  12 Jim Brookshire and Kevin Hughes looking up  13 at you?</b></p> <p>14      A. Yes, sir.</p> <p>15      <b>Q. And pointing?</b></p> <p>16      A. Yes, sir. It was basically  17 what are they doing? Why are they pointing  18 up here? I don't know.</p> <p>19      <b>Q. And was that before midnight?</b></p> <p>20      A. Yes, sir.</p> <p>21      <b>Q. And how much -- How long after  22 that was it that Jim Brookshire came  23 upstairs?</b></p>
Page 210	Page 212
<p>1 pull trolleys.</p> <p>2       <b>Q. Pull trolleys?</b></p> <p>3       A. Yes, sir. Because we had a  4 problem.</p> <p>5       <b>Q. Just so -- I think I know what  6 you're talking about, but when you say pull  7 trolleys, is that when part of that conveyor  8 system gets off line or something, and you'd  9 have to go straighten it out?</b></p> <p>10      A. If you know what I'm talking  11 about, yeah, the things that ride the rails,  12 that's the trolleys.</p> <p>13      <b>Q. Okay. Does that just mean one  14 of those got offline and you had to correct  15 it?</b></p> <p>16      A. Yes, sir.</p> <p>17      <b>Q. Okay. And when you went up  18 there with Shane Archer, was that when you  19 looked down and saw Kevin Hughes and Jim  20 Brookshire looking up at you or was that  21 later in the evening?</b></p> <p>22      A. No. It was at that instant.</p> <p>23 We had just finished pulling a trolley, just</p>	<p>1       A. Like I said earlier, no more  2 than five minutes.</p> <p>3       <b>Q. All right. And was it unusual  4 to see him walking around up there?</b></p> <p>5       A. Yes, sir. It was very unusual  6 to see him walking around up there unless  7 something was bad broke down.</p> <p>8       <b>Q. Okay. Do you recall seeing  9 him up there more than that one time on that  10 evening?</b></p> <p>11      A. No, sir.</p> <p>12      <b>Q. No?</b></p> <p>13      A. No, sir.</p> <p>14      <b>Q. Do you recall when Jim  15 Brookshire walked up there, was there  16 anybody else on the third level?</b></p> <p>17      A. No, sir.</p> <p>18      <b>Q. Just you and him?</b></p> <p>19      A. Yes, sir.</p> <p>20      <b>Q. Have you talked to anybody  21 else who talked to Jim Brookshire about what  22 he had gone up there for?</b></p> <p>23      A. No, I don't guess I have.</p>

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<p style="text-align: center;">Page 213</p> <p>1       <b>Q.</b> Okay. And did you talk to Jim 2 Brookshire? 3       A. That night, no. And then 4 later on, huh-uh. 5       <b>Q.</b> When he walked up there and 6 you saw him, did you say anything to him? 7       A. No, sir. Like I said he 8 was -- I was there at an MCC panel, and he 9 was up, I don't know, forty-five, fifty foot 10 away over there on the handrail. 11      <b>Q.</b> Okay. Did you wave at him or 12 motion to him at all? 13      A. No, sir. I just looked at 14 him. 15      <b>Q.</b> You looked at him? 16      A. Yes, sir. He looked at me and 17 walked down to the presses, looked out over 18 the presses, then walked back, looked at me 19 again, and walked back down. 20      <b>Q.</b> What was the closest he got to 21 you? 22      A. Like I say, forty-five, maybe 23 fifty feet.</p>	<p style="text-align: center;">Page 215</p> <p>1       -- Yes, it is a computer, but it doesn't 2 have a screen and the keys -- keyboards are 3 like what you're thinking. You have to get 4 online with it. 5       <b>Q.</b> How big is it? 6       A. It's probably about ten-foot 7 long, two-foot deep, six-foot high. 8       <b>Q.</b> Okay. Does it have doors that 9 enclose it or some sort of cover or 10 anything? 11      A. Yes, sir. 12      <b>Q.</b> What's it got? 13      A. It's got doors. 14      <b>Q.</b> Okay. How big are the doors? 15      A. About like that door there 16 (indicating). 17      <b>Q.</b> Okay. Just for the sake of 18 the Record, that's not going to translate 19 well on paper. Are there two doors to the 20 whole thing? 21      A. No. There was four -- four 22 doors. 23      <b>Q.</b> So they would have each been</p>
<p style="text-align: center;">Page 214</p> <p>1       <b>Q.</b> Now, what was the thing you 2 said you were near? 3       A. Motor control panel, MCC 4 panel. 5       <b>Q.</b> MCC panel. Now, is that -- 6 What is that? 7       A. It houses the PLC, computer 8 that runs the SOPS system. 9       <b>Q.</b> Okay. That's helpful. Thank 10 you. What is the PLC? 11      A. Programmable logic computer. 12      <b>Q.</b> Just for the sake of the 13 record, what does SOP mean? 14      A. SOP is the trolley system, 15 side outer panel system. 16      <b>Q.</b> Okay. Again, what was the 17 thing that you were standing near? 18      A. MCC. 19      <b>Q.</b> Is the MCC, is it like a 20 computer, it has got computer readouts on 21 it, buttons and stuff? 22      A. It's not a computer like 23 you're thinking of. It's got cards and it</p>	<p style="text-align: center;">Page 216</p> <p>1       about a fourth of that ten-foot length? 2       A. Yes, sir. 3       <b>Q.</b> Okay. 4       A. Plus you had your stabs in 5 between. 6       <b>Q.</b> What is a stab? 7       A. Just your door frame. 8       <b>Q.</b> Okay. Now, at the time Jim 9 Brookshire came up there, did you have your 10 back to the MCC? 11      A. Yes, sir, I did. 12      <b>Q.</b> Okay. Any reason you had your 13 back to the MCC? 14      A. So I could watch the trolleys. 15      <b>Q.</b> Okay. Were you not up there 16 to watch the MCC? 17      A. No, sir. 18      <b>Q.</b> Okay. Why would you be there 19 near the MCC as opposed to some other area 20 to watch the trolleys? 21      A. Because if you try to sit out 22 on open mesh, you're going through the 23 floor.</p>

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<p>1       Q. Was it not open mesh there 2 near the MCC? 3       A. About a two-foot section, no, 4 sir. 5       Q. A two-foot section was not 6 open mesh? 7       A. No, sir. But you can clearly 8 see up there everywhere. And that's where 9 me and Shane was standing when Jim and Kevin 10 was standing up there pointing at us talking 11 about us. 12      Q. Okay. So from where you were 13 sitting at the time Jim Brookshire came up, 14 is it your testimony that you could see from 15 where you were sitting all the way down 16 through the second floor, and then down to 17 the first floor? 18      A. Yes, sir. 19      Q. And the first floor was the 20 main production level? 21      A. Yes, sir. 22      Q. Okay. Had you ever sat up 23 there before?</p>	<p>1 on this one, go to the next one, but then it 2 may stop again on the next one. Just 3 because you get it going for two seconds, 4 don't mean it's going to be going -- it's 5 going to take off and run. 6       Q. Okay. So you were going to 7 stay up there and make sure it kept running? 8       A. Yes, sir. 9       Q. Okay. What were you planning 10 to do? I mean, how long would you stay 11 there? 12      A. As long as nothing happened -- 13 Well, that was my area of responsibility. I 14 could have stayed there all night, and I 15 would have been right in doing so. I was 16 told to stay in my area of responsibility 17 just like everyone else. Like I said, Mark 18 Hanks, he had to stay on press one, Darrel 19 Gray, he had to stay on press two, and Weihe 20 and Barefoot. That was my AO that I was 21 responsible for. 22      Q. AO meaning what? 23      A. Area of operation, area of</p>
<p>1       A. Everybody had. 2       Q. Okay. And everybody being, 3 everybody in stamping maintenance or 4 everybody period? 5       A. Everybody in stamping 6 maintenance. Because if it goes down, you 7 may be up there five minutes, you may be up 8 there five hours. 9       Q. Okay. Let me ask you this: 10 When Shane Archer -- You and Shane Archer 11 were up there working together that night? 12      A. Yes, sir. Shane came up to 13 help me out. 14      Q. When you and Shane had got 15 done and he walked downstairs, why did you 16 stay upstairs as opposed to going with 17 Shane? 18      A. Wait to see if that trolley 19 stopped again or kept going. They had track 20 switches, you've seen them. Track switches 21 switch, they had a track that had gone out 22 on a track switch, which if you've seen the 23 system, which I'm sure you have, it may stop</p>	<p>1 responsibility. 2       Q. Okay. Did you ever sleep up 3 on the third level? 4       A. I don't sleep. 5       Q. Ever? 6       A. Ever. 7       Q. On the job? 8       A. I don't sleep on the job, no. 9       Q. Okay. 10      A. I told you if I sleep -- I'm a 11 career soldier. I've been doing this since 12 I was seventeen. 13      Q. Doing what? Stamping 14 maintenance? 15      A. No. I've been a soldier since 16 I was seventeen, and I don't sleep. You've 17 got a young Joe out there, yeah, they may 18 fall asleep every now and then. First big 19 exercise they have and they wake up with a 20 black ink mark cross their throat and they 21 know that they've been visited, and don't 22 know when or where, you don't sleep no more. 23 That's real life. When you go to the combat</p>

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1 zone, you know what happens. You don't 2 sleep. You sleep, people die.	1 Q. And is it your testimony that 2 nobody from your shift ever indicated that 3 they or anybody else on your shift slept in 4 that corner?
3 Q. Well, in terms of your work at 4 Hyundai, I'm assuming your testimony is 5 you've never slept?	5 A. I never talked to nobody on my 6 shift about sleeping in that corner, no, 7 sir.
6 A. No, sir.	8 Q. Okay. Did you ever talk to 9 anybody on your shift about sleeping 10 anywhere up on the third level?
7 Q. Before that night, on that 8 night, or since that night?	11 A. No, sir. Drake Barefoot would 12 take his lunch break and go in the office 13 and sleep. Other than that, no, sir.
9 A. No, sir. You don't sleep at 10 work.	14 Q. In the office?
11 Q. Okay. What was it --	15 A. Yes, sir. During his lunch 16 break.
12 A. If you sleep at work --	17 Q. And is it your testimony that 18 while you were there, that there was nothing 19 other than a chair in the back corner?
13 Q. Was it unusual for people 14 working up on that third level to sleep?	20 A. I don't remember seeing 21 nothing other than a chair there.
15 A. I never saw nobody up there 16 other than maintenance production go up 17 there and count the panels.	22 Q. Okay. Do you -- Do you have 23 any personal knowledge, based on your
18 Q. Okay. Did you ever see 19 anybody from maintenance sleep up there?	
20 A. No, sir.	
21 Q. Did you ever see any 22 indication that somebody from maintenance 23 had slept up there?	
	Page 222
1 A. Talking about a chair in the 2 back corner? Yes, sir, there was a chair in 3 the back corner.	1 conversations with Wendy Warner at the time 2 you were terminated or anybody at that time 3 or before then or after then, to know what 4 went on at the time the decision to 5 terminate was made?
4 Q. Was there a chair in the 5 corner?	6 A. Say again.
6 A. In that back corner over 7 there, yes, sir, there was.	7 Q. Let me see if I can come up 8 with an easier way of asking it. 9 Would it be fair to state you 10 don't know who was involved in the decision 11 to terminate you?
8 Q. What kind of chair was it?	12 A. I have no idea who was 13 involved.
9 A. Same kind of chair I was 10 sitting in, a metal chair.	14 Q. Okay. And do you know 15 anything else about the decision to 16 terminate you?
11 Q. Was that all that was there?	17 A. No. Just that statement I 18 read where Prater said his recommendation 19 was termination. And that he told Hanks 20 that he did the investigation.
12 A. I believe so.	21 Q. All right. And would it be 22 fair to state that you don't know whether 23 Greg Prater sat in on the discussions or
13 Q. Nothing else in that back 14 corner?	
15 A. No.	
16 Q. Do you think somebody was back 17 there sleeping in that chair?	
18 A. I don't know. Wasn't nobody 19 on my shift was.	
20 Q. All right. Did you hear 21 anybody talking about people from other 22 shifts sleeping in that corner?	
23 A. No, sir.	

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<p style="text-align: right;">Page 225</p> <p>1   <b>decision to terminate you?</b>      2       A. I didn't know they had had a      3 meeting on it.      4       <b>Q. Okay. Do you have any reason</b>      5 <b>to think that Greg Prater had any other</b>      6 <b>involvement on it?</b>      7       A. Like I said, I didn't even      8 know they had a meeting.      9       <b>Q. Okay. Do you have any</b>      10 <b>evidence to suggest that your past military</b>      11 <b>involvement, either in Korea, Iraq, National</b>      12 <b>Guard, was a motivating factor in the</b>      13 <b>decision to terminate you?</b>      14       A. That's the way it seemed.      15       <b>Q. And it seemed that way why?</b>      16       A. Because every bit of that      17 stemmed from my prior duty commitment.      18 Everything stemmed around my drill weekends.      19       <b>Q. What stemmed?</b>      20       A. All the problems, all the      21 harassments.      22       <b>Q. I'm talking about the actual</b>      23 <b>decision to terminate you.</b></p>	<p style="text-align: right;">Page 227</p> <p>1       <b>Q. How was it that was part of</b>      2 <b>your termination?</b>      3       A. Like I said before, that's      4 where all my problems stem from. That's      5 where they all started with the drill      6 weekend.      7       <b>Q. Okay. So are you suggesting</b>      8 <b>that the fact that you had problems with</b>      9 <b>your drill weekends leads you to think that</b>      10 <b>that's why you were terminated?</b>      11       A. Yes, sir.      12       <b>Q. And do you have any firsthand</b>      13 <b>knowledge that that is in fact the case?</b>      14       A. Just all the incidents leading      15 up to it.      16       <b>Q. Okay. And do you know if</b>      17 <b>those incidents were discussed or considered</b>      18 <b>in the termination process?</b>      19       A. No, sir, I do not know that.      20              THE WITNESS: It's break time.      21              MR. JOHNSON: Okay. If you      22 need a break, take one.      23              (Recess taken.)</p>
<p style="text-align: right;">Page 226</p> <p>1       A. Oh, I have no idea. I don't      2 know. Like I said, I didn't even know they      3 had a meeting on it.      4       <b>Q. Okay. So it would be fair to</b>      5 <b>state that you're not aware, based on your</b>      6 <b>own personal knowledge, of any evidence to</b>      7 <b>suggest that your military service was a</b>      8 <b>motivating factor in the decision to</b>      9 <b>terminate you?</b>      10       A. Rephrase.      11       <b>Q. Would it be fair to say that</b>      12 <b>you don't have any personal knowledge that</b>      13 <b>your military history was a motivating</b>      14 <b>factor or part of the reason why they made</b>      15 <b>the decision to terminate you?</b>      16       A. I -- As far as my personal      17 knowledge, like I said, seems like my      18 military career was the whole reason for my      19 being fired.      20       <b>Q. Being fired or for being</b>      21 <b>harassed?</b>      22       A. Both. It started with the      23 harassment and ended in the termination.</p>	<p style="text-align: right;">Page 228</p> <p>1       <b>Q. Okay, Mr. Dees, we're back on</b>      2 <b>the Record again. I want to ask you a</b>      3 <b>couple more questions about some of the --</b>      4 <b>this alleged sleeping incident.</b>      5              Jim Brookshire is somebody we      6 talked about. Did you know Jim Brookshire      7 well?      8       A. He was -- Yeah. Working with      9 him every day near about.      10       <b>Q. Okay. Did you ever have any</b>      11 <b>problems with him?</b>      12       A. No. Not like with everyone      13 else, no.      14       <b>Q. Okay. Did he ever demand</b>      15 <b>orders from you, or anything like that?</b>      16       A. No. Because he wasn't in my      17 immediate chain of command.      18       <b>Q. Okay. Did he ever say</b>      19 <b>anything to you about your military career</b>      20 <b>or your Guard duty or anything like that?</b>      21       A. No. The only thing he cared      22 about was whether them presses was running.      23       <b>Q. Was what?</b></p>

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<p>1       A. Whether the presses was 2 running.</p> <p>3       <b>Q. Okay. Do you have any reason</b> 4 to think that Jim Brookshire has any bad 5 feelings or bad will towards you or anybody 6 else in the military for any reason?</p> <p>7       A. Towards me? Yeah. You got, 8 like I say, him and Prater, they were -- 9 they rubbed each other's back. You got 10 Prater come back down here a week ago, 11 talked to Bill Seivers telling him that 12 Applegate had told him to get rid of me. 13 You got --</p> <p>14      <b>Q. Now, wait a minute. Let's --</b></p> <p>15      A. After I got fired, I called 16 Mr. Moon, he said he would look into it. He 17 says Prater was wrong in doing what he's 18 doing, but I can't do anything about it.</p> <p>19      Were they rubbing each other's 20 back? Yeah. I mean, everything -- 21 Everything started when Prater said I had to 22 have orders.</p> <p>23      <b>Q. Okay.</b></p>	<p>1       A. Yeah. It wasn't a production 2 issue.</p> <p>3       <b>Q. All right. In other words, it</b> 4 was a maintenance issue and Brookshire 5 shouldn't have been there?</p> <p>6       A. Yeah.</p> <p>7       <b>Q. All right. During any of</b> 8 those meetings did he ever suggest to you 9 that he came because he didn't like you, 10 didn't like the work you did, didn't like 11 the fact that you were in the service, or 12 anything like that?</p> <p>13      A. He's a politician, he's not 14 going to come out and say -- He's going to 15 try to make himself look good.</p> <p>16      <b>Q. When you say he's a</b> 17 politician, do you mean that literally or 18 figuratively?</p> <p>19      A. Figuratively.</p> <p>20      <b>Q. Okay. I'm assuming he's never</b> 21 run for -- Had he run for office or anything 22 like that?</p> <p>23      A. Not that I know of. You</p>
<p style="text-align: center;">Page 230</p> <p>1       A. And that come because -- I 2 don't know why it come about.</p> <p>3       <b>Q. Well, I -- I got a pretty good</b> 4 understanding of your relationship with Greg 5 Prater. But I'm interested now in Jim 6 Brookshire. I want to make sure I know all 7 about that.</p> <p>8       Is what you're telling me that 9 the only issue you've got with Brookshire 10 was his closeness with Greg Prater?</p> <p>11      A. Well, every time I -- Not 12 every time. Several times I got called into 13 the office, Jim was there, yes.</p> <p>14      <b>Q. When you got called into the</b> 15 <b>office for what?</b></p> <p>16      A. Anything. Like the daily 17 reports, the pit, the lift. Anything.</p> <p>18      <b>Q. All right. Would that all be</b> 19 <b>stuff in Brookshire's area?</b></p> <p>20      A. Yeah. He was over that whole 21 area.</p> <p>22      <b>Q. Would there be any reason he</b> 23 <b>shouldn't be there?</b></p>	<p style="text-align: center;">Page 232</p> <p>1       probably know him better than I do. I don't 2 know.</p> <p>3       <b>Q. Are you just commenting on his</b> 4 <b>personality?</b></p> <p>5       A. Commenting on his personality.</p> <p>6       <b>Q. Okay. Can you think of</b> 7 anything else -- Other than showing up when 8 you got called into the office, can you 9 think of anything else Jim Brookshire did or 10 said that you think suggests any sort of 11 feelings against you?</p> <p>12      A. I mean, there had to be, why 13 else would he accuse me of sleeping?</p> <p>14      <b>Q. What are they? Are you</b> 15 <b>guessing or you know of some?</b></p> <p>16      A. I don't know. You'll have to 17 ask him.</p> <p>18      <b>Q. All right.</b></p> <p>19      MR. SPORT: And we're trying 20 to right now.</p> <p>21      <b>Q. Okay. But from your personal</b> 22 <b>standpoint, do you know of anything?</b></p> <p>23      A. Like I said, everything</p>

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<p>1 started with my military problem -- my      2 military commitment. And that's where it      3 stayed throughout my tenure there.</p> <p>4 Q. Okay.</p> <p>5 A. So you have to ask him.</p> <p>6 Q. To your knowledge, has Hyundai      7 ever been nominated for any awards related      8 to their employment of military personnel?</p> <p>9 A. According to -- According to      10 them they have. And --</p> <p>11 Q. Do you think it's not true?</p> <p>12 A. -- ESGR.</p> <p>13 Well, it may be, I don't know.</p> <p>14 Q. Okay. Are you saying it's not      15 true?</p> <p>16 A. The ESGR rep said they had      17 been put in for one. And they said after I      18 got fired, about two weeks after I got      19 fired, I think, somebody said they put in      20 for one. I'm not sure. The ESGR rep, I      21 don't know, you'll have to call him.</p> <p>22 Q. Who are you talking about?</p> <p>23 A. That Dan, the one that I told</p>	<p>1 a week prior.</p> <p>2 Q. What did he say?</p> <p>3 A. He said that he didn't even      4 know that I was even being considered for      5 termination; that he didn't know nothing      6 about it; and that he would look into it.</p> <p>7 Q. Okay. Did he say anything      8 else on the night of that call?</p> <p>9 A. He apologized for my being      10 fired and he hated that happened because I      11 was a good worker.</p> <p>12 Q. Okay. Did you say anything      13 else to him that night?</p> <p>14 A. I don't remember. By the time      15 I got home, I was pretty perturbed.</p> <p>16 Q. I mean, did you call him from      17 home?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Did your wife talk to him that      20 night?</p> <p>21 A. Yes. She explained everything      22 to him in Korean.</p> <p>23 Q. Do you speak Korean?</p>
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<p>1 you I had e-mailed, that ESGR      2 representative. You'll have to ask him.</p> <p>3 Q. Okay. All right. We'll have      4 to come back to that question because I lost      5 that e-mail.</p> <p>6 Is there anybody else that you      7 and I haven't talked about that either knows      8 -- that works at Hyundai, that either knows      9 anything about problems you had with Prater      10 or HR or anybody related to your service,      11 anybody else?</p> <p>12 A. I called Mr. Moon the night I      13 got fired.</p> <p>14 Q. Yeah. Let's talk about      15 Mr. Moon. Did you talk to Mr. Moon or did      16 your wife talk to Mr. Moon?</p> <p>17 A. I talked to Mr. Moon first and      18 then my wife talked to him.</p> <p>19 Q. All right. What did you tell      20 Mr. Moon?</p> <p>21 A. I told him that I had been      22 fired, and that I was supposedly fired for      23 sleeping in the SOPS, up on the third floor,</p>	<p>1 A. Some. Between my Korean and      2 his English, we was able to communicate      3 pretty good.</p> <p>4 Q. Did you speak to him some in      5 Korean?</p> <p>6 A. I may have. Like I said, I      7 was pretty hot.</p> <p>8 Q. But, again, am I right that      9 you told me everything that you told him or      10 that he said to you on that telephone call?</p> <p>11 A. He said he would look into it      12 and get back with me.</p> <p>13 Q. All right. Based on either      14 what you overheard in Korean -- Was the      15 conversation your wife had with him in      16 Korean?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Okay. From what you could      19 hear and understand in Korean, or from what      20 she told you later, what is your      21 understanding as to what she said?</p> <p>22 A. I wasn't paying attention to      23 the conversation she had with him. But</p>

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1 basically the same thing, that he told her 2 he hated to see me fired because I was a 3 good employee and that he would look into it 4 and that he would get back with me.	1 Q. Okay. Did he indicate who he 2 had talked to since the last time y'all had 3 a telephone call? 4 A. I think he talked to -- I 5 think he said it was J.H. Kim or president 6 Ahn. It was J.H. Kim or Ahn, one, I can't 7 remember.
5 Q. Did he say anything else to 6 your wife that evening? 7 A. I don't know.	8 Q. All right. Do you know why 9 Mr. Moon said that Greg Prater had lied? 10 A. You'll have to ask Mr. Moon 11 that.
8 Q. Okay. Do you know if your 9 wife had any later conversations with him? 10 A. The next night he called back.	12 Q. Okay. Do you -- 13 A. Mr. Moon said that Prater was 14 a bad man.
11 Q. Okay. And did he speak to you 12 that night? 13 A. A little bit. He mostly 14 talked to my wife.	15 Q. Okay. Did he say specifically 16 what he understood Greg Prater to have lied 17 about? 18 A. Yeah. Said that Greg Prater 19 lied about my sleeping at work.
15 Q. Okay. Were you able to 16 overhear the conversation? 17 A. Yes, sir. I talked to her 18 afterward.	20 Q. Okay. Did you get the 21 impression that Mr. Moon thought that Greg 22 Prater had been there that night? 23 A. No, sir, I did not.
19 Q. All right. What did they talk 20 about that night? 21 A. He stated that Prater was 22 lying, that Prater had been wrong. 23 Q. That Prater was lying?	Page 238
1 A. Yes, sir. 2 Q. Lying about what? 3 A. My supposedly sleeping at 4 work. 5 Q. Why did he say Prater was 6 wrong? 7 A. And that he was -- 8 MR. KILBORN: Don't interrupt 9 him. 10 A. I don't know. You'll have to 11 ask him. That Prater was wrong in firing me 12 and that there was nothing he could do about 13 it now, he was told to stay away from it. 14 Q. Did he say who said to stay 15 away? 16 A. No. You'll have to -- I think 17 he made the comment to Mark Hanks. I'm not 18 sure. 19 Q. Do you know what Mr. Moon's -- 20 what his position is at the plant? 21 A. He was the Korean counterpart 22 to Prater; he was from HMC, he was our 23 Korean boss.	1 Q. Okay. Did Mr. Moon say that 2 Jim Brookshire had lied? 3 A. I didn't ask him about Jim 4 Brookshire. 5 Q. You never talked about Jim 6 Brookshire? 7 A. No, sir. 8 Q. Did you know that Jim 9 Brookshire was the one that indicated he had 10 seen you sleeping? 11 A. Yes, I did. I knew from the 12 very first meeting. 13 Q. Okay. You never told Mr. Moon 14 about that? 15 A. No, I did not. 16 Q. You never told Mr. Moon to 17 talk to Mr. Brookshire? 18 A. No. I'm sure he probably did, 19 though. You've interviewed my friends, 20 you'd have to ask them what -- they talked 21 to them. 22 Q. When you say you're sure 23 you're sure he did, do you know that or are

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<p>1 you just wanting that to be the case?</p> <p>2 A. Say again.</p> <p>3 Q. When you say you're sure that</p> <p>4 Mr. Moon talked to Jim Brookshire, why? Why</p> <p>5 do you say that?</p> <p>6 A. Because of Mr. Moon's attitude</p> <p>7 toward Prater and production --</p> <p>8 stamping/production in general.</p> <p>9 Q. Okay.</p> <p>10 A. Stamping management.</p> <p>11 Q. Okay. Did he ever say</p> <p>12 anything about Jim Brookshire?</p> <p>13 A. On the phone? No.</p> <p>14 Q. Did he say anything about Jim</p> <p>15 Brookshire in person?</p> <p>16 A. No. We never talked about</p> <p>17 Jim.</p> <p>18 Q. Okay.</p> <p>19 A. Usually all we talked about</p> <p>20 was production -- I mean work-related</p> <p>21 problems. But me and Mr. Moon was good</p> <p>22 friends. We talked. We talked a lot.</p> <p>23 Q. Did you and Mr. Moon talk</p>	<p>1 English.</p> <p>2 Q. That's debatable. I'm</p> <p>3 assuming y'all talk in English at the house?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And she works in an</p> <p>6 English-speaking environment?</p> <p>7 A. Yes, sir. My daughters don't</p> <p>8 speak Korean, so she speaks English pretty</p> <p>9 well.</p> <p>10 Q. Okay. Did Mr. Moon indicate</p> <p>11 -- or did you and Mr. Moon discuss John</p> <p>12 Applegate at all?</p> <p>13 A. No, sir. At that point I was</p> <p>14 still upset. I mean, I was -- I was fired</p> <p>15 up. I had been treated like crap, treated</p> <p>16 like trash, accused of something I didn't</p> <p>17 do; gone through the wringer for several,</p> <p>18 several months. No, I was just upset. I</p> <p>19 was bad upset. I had never had nothing like</p> <p>20 that happen to me in my life.</p> <p>21 Q. Okay.</p> <p>22 A. I've got my evaluations from</p> <p>23 BE&amp;K and everywhere. When I left BE&amp;K and</p>
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<p>1 about who had made the decision to terminate</p> <p>2 you?</p> <p>3 A. No, I did not.</p> <p>4 Q. Okay. Y'all didn't talk about</p> <p>5 anybody but Greg Prater?</p> <p>6 A. I didn't talk about Greg</p> <p>7 Prater. I asked -- He told me he would</p> <p>8 check into seeing why I got fired. I don't</p> <p>9 know who he talked to specifically, no. He</p> <p>10 said, like I say, it was either J.H. Kim or</p> <p>11 Ahn, one, and I told you the statements he</p> <p>12 made.</p> <p>13 Q. Okay. And he didn't say</p> <p>14 anything else?</p> <p>15 A. I don't know. He talked to my</p> <p>16 wife, you'll have to -- I don't know.</p> <p>17 Q. Okay. And is your wife's</p> <p>18 English perfect English?</p> <p>19 A. Pretty much.</p> <p>20 Q. If we were to take her</p> <p>21 deposition, would there be any reason we</p> <p>22 would need an interpreter?</p> <p>23 A. Not unless you don't speak</p>	<p>1 went to International Paper, I got a</p> <p>2 fifty-three out of fifty-four rating. I had</p> <p>3 outstanding marks on my record. I've had</p> <p>4 outstanding marks everywhere I worked. I've</p> <p>5 never been accused of sleeping or had a</p> <p>6 blemish on my record.</p> <p>7 Q. Okay. Let's talk a little bit</p> <p>8 about in your complaint you've included as</p> <p>9 count number two an outrage claim. That</p> <p>10 starts on, I guess, page seven on your</p> <p>11 complaint.</p> <p>12 What's indicated here in count</p> <p>13 two suggests that Hyundai intentionally</p> <p>14 created a harassing environment and</p> <p>15 subjected Dees to a pattern of intentional</p> <p>16 harassment regarding Dees' membership in the</p> <p>17 Guard and Dees' Guard service obligations.</p> <p>18 MR. KILBORN: Are you</p> <p>19 referring to a specific paragraph?</p> <p>20 MR. JOHNSON: Paragraph</p> <p>21 twenty-four.</p> <p>22 MR. KILBORN: Take a look at</p> <p>23 twenty-four.</p>

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<p>1       Q. If you want to look at that  2 paragraph, you can, Mr. Dees.  3           Have you read it?  4       A. Yes, sir.  5       Q. Okay. Other than the things  6 that we have already talked about, which is  7 obviously quite a bit, are there any other  8 facts that you're aware of to suggest that  9 Hyundai intentionally created a harassing  10 environment?  11      A. Yes, sir. Like I said, right  12 from the time it started, my Guard service  13 was a -- the center of everything, until my  14 termination.</p> <p>15      Q. Okay. And you've indicated  16 that. Is there anything else that you're  17 relying on to support your outrage claim  18 factually?</p> <p>19      A. Like I said, you've got a team  20 leader still working out there that said  21 Prater came down a week ago and told him  22 that Applegate told him to get rid of me,  23 that he needed to get rid of me.</p>	<p>1 what you're telling me now?  2       A. Yes, sir.  3       Q. And this was -- when Prater  4 came was when?  5       A. About a week ago, I think.  6       Q. And Bill Seivers told Mark  7 Bornberg that Prater had recordings?  8       A. Of Applegate stating --  9 telling him he needed to get rid of me.  10      Q. All right. When were they  11 made?  12      A. I have no idea. You'll have  13 to ask Applegate and Prater.  14      Q. Do you have any idea, based on  15 your discussions with Mark Bornberg, why,  16 apparently, Greg Prater came to Bill  17 Seivers' house to talk to him?  18      A. I have no idea.  19      Q. Do you have any idea why they  20 would have talked about this situation?  21      A. You'll have to ask Bill  22 Seivers that, or Prater.  23      Q. And, again, I just want to</p>
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<p>1       Q. Who said this and when did  2 they say it?  3       A. Bill Seivers, he's a team  4 leader on one of the shifts out there now.  5       Q. When did you talk to him?  6       A. I didn't. You'll get a chance  7 to talk to him when you go back to the  8 plant, I reckon. Prater came by his house a  9 week ago and made the comment that he had  10 recordings of Applegate making the comment  11 he needed to get rid of me.</p> <p>12      Q. And you didn't talk to Bill  13 Seivers?  14      A. No, sir.  15      Q. Do you know who talked to Bill  16 Seivers and told him he needed to get rid of  17 you?  18      A. Yes, sir. Mark Bornberg.  19      Q. So Mark Bornberg talked to  20 Bill Seivers?  21      A. Yes, sir. They work together  22 everyday.  23      Q. And called you and told you</p>	<p>1 know what you know. If you don't know  2 anything, that's fine.  3           Did you work with Bill  4 Seivers?  5       A. Yes, sir. He was a team  6 leader on the other shift.  7       Q. Okay. Was Bill Seivers  8 somebody you were close to?  9       A. I mean, yeah, we worked --  10 Like I said, everybody in our section, we  11 lived there, twelve hours a day, sometimes  12 seven days a week.  13      Q. Okay. Were he and Prater  14 particularly close?  15      A. I don't know. You'll have to  16 ask them about that.  17      Q. Okay. Another thing that  18 you've indicated in your outrage claim on  19 page seven of your complaint is that this  20 situation caused you severe emotional  21 distress.  22           What -- I mean, what kind of  23 severe emotional distress have you suffered?</p>

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<p style="text-align: center;">Page 249</p> <p>1 A. I have never, never had a 2 blemish on any record, as I've stated 3 before, military or civilian. When you're 4 standing there among your friends, you've 5 got security guards coming in telling you 6 you've got to go, treating you like a 7 criminal, they won't even let you go get 8 your personal property, that HMMA says 9 belongs to them once it gets through that 10 gate, says it's no longer yours, it's 11 theirs, you can't go get it; walking you 12 out, surrounding you like you're a crook.  13 Here I have -- Like I said, I 14 ain't no war hero, but I served my country 15 proudly so they can act like that and that 16 ain't -- I was walked out like a criminal. 17 When I got to that building, that security 18 building, I walked in, everybody is just 19 standing there bowed up and everything. I'm 20 the focus of attention and it ain't good. 21 I'm walked in a room, I'm sat down, this 22 lady introduces herself, the next gentleman, 23 the next gentleman, and then she reads me a</p>	<p style="text-align: center;">Page 251</p> <p>1 that was very hard to get, with better 2 benefits than I had on active duty in the 3 military, to unemployed. Then I've got to 4 go home and try to comfort her. All my 5 friends at work, everybody -- there's a lot 6 of people that work there, then they're 7 looking at you like why did you get fired? 8 Yeah, it hurt. That ain't right.  9 Q. It sounds to me like you got a 10 significant amount of problems with the way 11 in which the termination was conducted? 12 A. It ain't just the way. Why 13 was I terminated?  14 Q. Okay. 15 A. Like I said, they ignored 16 their own process. They got a seven -- six- 17 or seven-step process. I went from zero to 18 fired. After several complaints, even a 19 complaint -- a letter sent by my unit, and 20 it's the same complaint the whole time, all 21 of a sudden I'm fired for an accusation that 22 occurred in a matter of five minutes. No.  Q. Any other facts you can point</p>
<p style="text-align: center;">Page 250</p> <p>1 letter, slams it down on the table, face 2 down. When I asked her questions, she's 3 short, very rude, gets up and walks out.  4 And then, the only thing 5 they're worried about is getting your little 6 security lock, your safety lock, and the 7 keys. And you ask why come I'm being fired? 8 What happened to your firing process? They 9 act like you're not even there; they don't 10 even want to acknowledge you. You get 11 walked out, you're dropped off down here 12 (indicating), your truck is three gates up. 13 Security guard volunteered to take me to my 14 truck. When I get to my truck, I had to 15 call them aside to get them to bring me my 16 tool bag, and then they got on to Shane 17 Archer for bringing me my tool bag that I 18 had purchased with my money, that they said 19 now belonged to them because I brought it in 20 that gate. I go home, my wife, I call her, 21 she's crying.  22 All of a sudden I've gone from 23 a very, very good job that I wanted to keep,</p>	<p style="text-align: center;">Page 252</p> <p>1 to that have resulted in severe emotional 2 distress? 3 A. Made it look like my military 4 career wasn't worth a flip. Made it look 5 like I was just some piece of trash come up 6 looking for a job.  7 Q. Is that all the facts that 8 you're relying on to support your severe 9 emotional distress claim? 10 A. Is that all the facts? No. 11 My wife is still -- Everybody is still like: 12 I can't believe Leon got fired.  Q. Tell me how -- I mean, tell me how else it has impacted you. 15 A. It impacted me financially big time. I go from a job where I'm bringing home real good money, insurance, like I said, better than I had in the military, to a job where -- I'm just jobless. And the only reason I got a job the next day, is because of a fellow I grew up with that I'd known all my life. Because when I went in to fill out the job application the next</p>

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<p>1 morning, the fellow told me, he asked me,      2 why did you leave Hyundai. I told him, I      3 said, I got fired. He said, I'm going to      4 tell you straight up, if it hadn't been for      5 your friend there recommending you, I would      6 not have hired you.</p> <p>7 Q. Who was your friend that      8 recommended you?</p> <p>9 A. James Daniel Smitherman.</p> <p>10 Q. Smitherman?</p> <p>11 A. Yes, sir. They told me      12 straight up they wouldn't have hired me      13 simply because I had been fired. I didn't      14 lie to them, I told them why I was fired,      15 said they accused me of sleeping on the job.      16 And when I got on with International Paper,      17 same thing, if I hadn't been working there      18 for five months and they hadn't seen my work      19 performance, they told me they would not      20 have hired me. Because I told them, same      21 thing, they asked me why I left Hyundai, I      22 told them the circumstances, everything, I      23 didn't holdback. I told them everything.</p>	<p>1 A. I don't know.      2 Q. All night?      3 A. All night the first few      4 nights, yeah. I've never -- I told you I've      5 never, never had a blemish on my record.      6 Q. Since those first few nights,      7 have you lost any sleep over it?      8 A. I don't know. I mean, there's      9 times me and her talk about it, yeah. I've      10 never been treated like that, never.      11 Q. All right. Are there any      12 other sort of psychological problems that      13 you've had as a result of the emotional      14 distress of this incident?      15 A. Yeah. Every time I go to fill      16 out an application anywhere it says have you      17 ever been terminated? Yes, I have. And      18 why?      19 Q. Are you filling out job      20 applications currently?      21 A. No. But even if you go to a      22 bank and fill out a loan application,      23 they'll ask if you've ever been terminated</p>
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<p>1 And they said, you better be glad we saw      2 your work performance and James recommended      3 you or you would not be getting this job.</p> <p>4 Q. Okay. In terms of the severe      5 emotional distress you're claiming in this      6 lawsuit, did you ever talk to your pastor      7 about it, seek any counseling, go to the      8 doctor about it?</p> <p>9 A. I'm a soldier, I don't have      10 time to talk to nobody and I had a family to      11 feed, a kid in college, a kid in high      12 school. I had to work because I wasn't      13 making nowhere near what I was bringing home      14 out there.</p> <p>15 Q. Did it have any physical      16 impact on you at home? I mean did you cry a      17 lot?</p> <p>18 A. I don't cry. Unless my friend      19 is dead, I don't cry.</p> <p>20 Q. Did you lose sleep over it?</p> <p>21 A. Yeah. When you get fired, I      22 stayed wake all night several nights.</p> <p>23 Q. How many nights?</p>	<p>1 from a job. I'm an honest person, like I      2 said, I'll tell you when I mess up. And      3 I've got to put yes, and they're going to      4 ask my why and I've got to tell them.      5 Q. Have you received any medical      6 treatment as a result of emotional distress      7 as a result of this incident?      8 A. I told you, I've got a family      9 with a kid in college, I ain't got time to      10 seek nothing, I've got to make money.      11 I've got a girl that's in a      12 third year in college and junior in high      13 school, I don't have time to go talk to      14 nobody. I got bills to pay, like everybody      15 else.      16 Q. You mentioned that Shane      17 Archer had gotten your tool bag?      18 A. Yes, sir. And they got onto      19 him for that. They threatened to fire him.      20 Q. I want to make sure I      21 understand what was going on there. I      22 assume your tool bag -- Where was your tool      23 bag when he went to get it?</p>

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<p>1       A. It was in the plant back there      2 in the stamping section. I don't even      3 remember where I left it.</p> <p>4       Q. So when they had come to get      5 you before they went and cleaned out your      6 locker and gave you your jacket, had you had      7 your tool bag with you somewhere out in the      8 plant, you just left it there?</p> <p>9       A. Yes, sir.</p> <p>10      Q. When they came up to you?</p> <p>11      A. Yes, sir.</p> <p>12      Q. Where did Shane Archer bring      13 it to you?</p> <p>14      A. He brought it to the gate up      15 there in front of body weld, up there where      16 I parked.</p> <p>17      Q. Okay. And that was after you      18 sat down with Wendy Warner and the others to      19 talk about the termination?</p> <p>20      A. They kicked me out of the      21 plant, I couldn't get back in. As a matter      22 of fact, the guard that gave me a ride to my      23 truck, come back around there to the gate</p>	<p>1       document before?      2                    MR. SPORT: Matt, while he's      3 looking at that, would you mind -- if the      4 document is Bates numbered, putting the      5 Bates number in the Record?</p> <p>6                    MR. JOHNSON: The only reason      7 I wouldn't, is because some of these are our      8 documents and some are your documents, so      9 the Bates numbers -- if I say it's Bates      10 number 35 --</p> <p>11                  MR. SPORT: Just read the      12 Bates number into the Record.</p> <p>13                  MR. JOHNSON: I know. But if      14 I say Bates number 35, it could be my Bates      15 number 35 or your Bates number 35.</p> <p>16                  MR. SPORT: Well, no, your      17 Bates sequence is Dees V. HMMA and ours is      18 just Dees. So they are different.</p> <p>19                  MR. JOHNSON: Why don't we      20 just use the exhibit numbers. It's a      21 deposition, why don't we just use exhibit      22 numbers.</p> <p>23                  MR. SPORT: Okay. Well, I</p>
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<p>1 and wanted to know why I was still there.      2 And Don Gillingham, something like that, the      3 body weld maintenance manager, he was      4 standing outside, about thirty feet down      5 from me. Apparently everybody but me knew I      6 was getting fired because he called security      7 and asked what I was still doing there, when      8 all I'm doing is waiting on my tool bag. I      9 was treated like a thug, and I don't like      10 it. I might as well have been a prisoner of      11 war somewhere.</p> <p>12       THE WITNESS: Let me take a      13 break and go check on my wife.</p> <p>14       MR. JOHNSON: Okay. That's      15 fine.</p> <p>16       (Recess taken.)</p> <p>17       (Whereupon, Defendant's      18 Exhibit No. 6 was marked      19 for identification.)</p> <p>20       Q. Mr. Dees, this is something      21 we've marked as Exhibit 6 to your      22 deposition. Can you take a look at that and      23 tell me whether that -- you've seen this</p>	<p>1       don't know why you would be opposed to      2 putting the Bates number in the Record.</p> <p>3                    MR. KILBORN: Well, I'll put      4 it in there. It's Dees versus HMMA 00035.</p> <p>5       Q. Have you read it?</p> <p>6       A. Yes, sir.</p> <p>7       Q. Several lines down there in      8 bold print it suggests that -- or Greg      9 Prater suggests that during his discussion      10 with you at one point you responded by      11 saying, quote, I just don't give a damn.      12 You guys just do whatever you want. I'm fed      13 up with this -- and I'll spell -- S-H-I-T,      14 period, end quote.</p> <p>15       Do you recall ever making a      16 statement similar to that?</p> <p>17       A. A statement I made to him.      18 Then he referred to -- You've got to look at      19 it if you were a forward observer on lookout      20 guard duty. The statement I made to him is,      21 if I were the lookout on guard duty, I      22 wouldn't be sleeping.</p> <p>23       Q. So are you saying you did not</p>

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<p>1 make the comment he has in bold print there?</p> <p>2 A. No, sir, I did not.</p> <p>3 Q. Okay. Not at that time, and</p> <p>4 never at any time?</p> <p>5 A. (Witness shakes head in the</p> <p>6 negative.)</p> <p>7 Q. When you say you remember --</p> <p>8 Are you saying you don't remember making it</p> <p>9 or you know you didn't make it?</p> <p>10 A. No, sir, I didn't -- I didn't</p> <p>11 cuss him like that.</p> <p>12 Q. Okay.</p> <p>13 A. And I didn't make --</p> <p>14 Q. When you say you didn't cuss</p> <p>15 him like that, is that because you don't use</p> <p>16 curse words?</p> <p>17 A. Try not to.</p> <p>18 Q. Okay. When you say try not</p> <p>19 to, do you succeed or do you use them?</p> <p>20 A. Most of the time I do.</p> <p>21 Q. Okay. Is it your testimony</p> <p>22 that you did not use curse words at Greg</p> <p>23 Prater?</p>	<p>1 firing process, they have to tell you.</p> <p>2 Q. All right. Now, so in terms</p> <p>3 of this process, did you ever raise that</p> <p>4 issue? Did you ever say, hey, somebody,</p> <p>5 it's not right to terminate me, I haven't</p> <p>6 gone through the process?</p> <p>7 A. That lady.</p> <p>8 Q. Wendy Warner?</p> <p>9 A. That's her.</p> <p>10 Q. Okay.</p> <p>11 A. And like I said, it's like I</p> <p>12 wasn't even talking.</p> <p>13 Q. Did she respond to you or say</p> <p>14 anything about that process?</p> <p>15 A. No, sir.</p> <p>16 Q. Okay. Now, I mean, in terms</p> <p>17 of processes and procedures, did you engage</p> <p>18 in any subsequent processes or procedures</p> <p>19 after your termination to try to get your</p> <p>20 job back or try to get the situation</p> <p>21 changed?</p> <p>22 A. I called them about the --</p> <p>23 what's it called?</p>
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<p>1 A. No, sir, I did not.</p> <p>2 Q. Did you use any at anybody at</p> <p>3 the plant?</p> <p>4 A. No, sir.</p> <p>5 Q. Okay. Did you use curse words</p> <p>6 around your coworkers?</p> <p>7 A. No, sir. Most of the time --</p> <p>8 If I mash my finger or something.</p> <p>9 No, sir, I try not to, and</p> <p>10 most of the time I don't. I'm not going to</p> <p>11 sit here and tell you no, I never do it.</p> <p>12 Q. In your conversations with</p> <p>13 Greg Prater, at any point in time did you</p> <p>14 ever ask him, what can I do about this</p> <p>15 situation? How can I keep my job? What can</p> <p>16 I do to keep my job?</p> <p>17 A. I didn't think my job was in</p> <p>18 jeopardy at that point. Like I said, they</p> <p>19 have a six- or seven-step firing process. I</p> <p>20 haven't even entered phase one at this step,</p> <p>21 at this phase. I have not entered the</p> <p>22 firing process whatsoever. Any time you --</p> <p>23 Lucas Cooner told us, any time you enter a</p>	<p>1 Q. Team member review?</p> <p>2 A. That's it.</p> <p>3 Q. Okay. Tell me about that.</p> <p>4 Who did you call?</p> <p>5 A. I never could get ahold of</p> <p>6 nobody. I had Rob Clevenger's number, I</p> <p>7 think, and I never saw him. I'd leave him</p> <p>8 messages and he'd leave me messages.</p> <p>9 Q. So y'all traded messages?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did Wendy Warner ever call</p> <p>12 you?</p> <p>13 A. No, sir.</p> <p>14 Q. Did anybody but Rob Clevenger</p> <p>15 ever call you about the review process?</p> <p>16 A. I don't think so. I don't</p> <p>17 know.</p> <p>18 Q. Okay. Do you remember getting</p> <p>19 a letter from Wendy Warner indicating when</p> <p>20 the team member review would be scheduled</p> <p>21 for?</p> <p>22 A. Yeah. I got it on a Saturday</p> <p>23 evening and that review was supposed to have</p>

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<p style="text-align: right;">Page 265</p> <p>1 been a Monday morning.      2 (Whereupon, Defendant's      3 Exhibit No. 7 was marked      4 for identification.)</p> <p>5 <b>Q. Okay. And let me mark as</b>      6 <b>Exhibit 7, a copy of the letter.</b></p> <p>7 MR. JOHNSON: For Mr. Sport      8 and Mr. Kilborn's benefit, that's Dees V      9 HMMA document 1.</p> <p>10 MR. KILBORN: Thank you.</p> <p>11 <b>Q. Mr. Dees, what we've marked</b>      12 <b>there as Exhibit 7, do you recall receiving</b>      13 <b>that letter at your home?</b></p> <p>14 A. Yes, sir.</p> <p>15 <b>Q. And you say you received that</b>      16 <b>on a Saturday?</b></p> <p>17 A. Yes, sir.</p> <p>18 <b>Q. Okay. And then the review was</b>      19 <b>scheduled for the following Monday?</b></p> <p>20 A. Yes, sir.</p> <p>21 <b>Q. Okay. And it was scheduled</b>      22 <b>for ten o'clock in the morning?</b></p> <p>23 A. Yes, sir.</p>	<p style="text-align: right;">Page 267</p> <p>1 <b>Hyundai that you got another job and it</b>      2 <b>conflicts with that ten o'clock meeting?</b></p> <p>3 A. I got this letter Saturday      4 evening. Monday morning you're not going to      5 get ahold of anybody there.</p> <p>6 <b>Q. Had you ever left a voicemail</b>      7 <b>with Rob Clevenger saying that you had</b>      8 <b>another job and telling him when it ought to</b>      9 <b>be scheduled?</b></p> <p>10 A. No, sir. This letter and      11 those two little messages, the only thing I      12 got was that I met the requirements, and      13 that was it. I didn't know what was going      14 on, I never could get ahold of nobody there.</p> <p>15 <b>Q. Did you write them a letter?</b></p> <p>16 A. No, sir, I did not.</p> <p>17 <b>Q. Were you keeping notes about</b>      18 <b>what was going on at this point in time?</b></p> <p>19 A. No, sir. I had to make money.</p> <p>20 <b>Q. Okay.</b></p> <p>21 A. Because I had to work a lot of      22 hours because I wasn't making nowhere near      23 what I was making.</p>
<p style="text-align: right;">Page 266</p> <p>1 <b>Q. And did you attend?</b></p> <p>2 A. No, sir.</p> <p>3 <b>Q. Did you call Wendy Warner to</b>      4 <b>talk about it?</b></p> <p>5 A. No, sir.</p> <p>6 <b>Q. Did you call Rob Clevenger to</b>      7 <b>talk about it?</b></p> <p>8 A. No, sir.</p> <p>9 <b>Q. Did you call anybody to say I</b>      10 <b>can't be there at ten?</b></p> <p>11 A. No, sir. I believe I talked      12 to my lawyers about it.</p> <p>13 <b>Q. Okay. And after talking to</b>      14 <b>your lawyers, you didn't show up?</b></p> <p>15 A. No, sir. The reason I didn't      16 show up, because I had a job that was paying      17 a little bit, even though it wasn't paying      18 what I was making at Hyundai. And if I had      19 taken off from a job, not only being there a      20 week or two to go to meet to try to get my      21 old job, I wouldn't have had a job when I      22 got back the next day.</p> <p>23 <b>Q. Did you tell anybody at</b></p>	<p style="text-align: right;">Page 268</p> <p>1 <b>Q. You said you were keeping</b>      2 <b>notes when you were at Hyundai, you were</b>      3 <b>making money then, weren't you?</b></p> <p>4 A. Yes, I was.</p> <p>5 <b>Q. And you were working?</b></p> <p>6 A. Yes, sir.</p> <p>7 <b>Q. And you were keeping notes</b>      8 <b>then?</b></p> <p>9 A. I didn't have the problems I      10 was having then.</p> <p>11 <b>Q. And this was still going on</b>      12 <b>later?</b></p> <p>13 A. There was no one to talk to,      14 what notes was there to keep? I had two      15 messages on my answering machine. What else      16 is there to keep? I kept the messages.</p> <p>17 <b>Q. Do you think they were both</b>      18 <b>from Rob Clevenger?</b></p> <p>19 A. I don't remember. I know one      20 of them was. I don't remember if both of      21 them were or not. I don't know.</p> <p>22 <b>Q. So you remember one of them</b>      23 <b>was from Rob Clevenger?</b></p>

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<p style="text-align: right;">Page 269</p> <p>1 A. Yes, sir.      2 Q. And the other may have been      3 from him, may have been from somebody else?      4 A. May have been.      5 Q. Do you know when those      6 telephone messages came in?      7 A. According to this, it says      8 March the 2nd and March the 7th. May or may      9 not have been, I don't know. Like I said,      10 my world had been turned upside down.      11 Q. Do you recall receiving the      12 initial phone message on March the 2nd?      13 A. I don't believe so.      14 Q. And do you know whether that      15 was from Rob Clevenger or who?      16 A. I don't remember.      17 Q. Do you remember returning that      18 call immediately?      19 A. No, sir. Because it was late      20 in the evening, I had gotten home from work      21 late.      22 Q. All right. Did you return      23 that call the next day?</p>	<p style="text-align: right;">Page 271</p> <p>1 would have selected from or how it would      2 have been done?      3 A. I didn't know anything about      4 the process at all.      5 Q. And you didn't show up to find      6 out?      7 A. No, sir. Like I said, I had      8 to work. I couldn't take a chance on losing      9 a job that I had gotten through a friend to      10 try and look, maybe possibly one in a      11 million shot getting a job back that I had      12 been fired from.      13 Q. You never called Rob Clevenger      14 that morning before you went to work to tell      15 him you couldn't make it?      16 A. No, sir.      17 Q. And you never called him      18 since, did you?      19 A. No, sir.      20 Q. Are you aware of any other      21 process at Hyundai that might possibly allow      22 you to get your job back, other than this      23 team member review process?</p>
<p style="text-align: right;">Page 270</p> <p>1 A. I may have. I don't know.      2 Q. All right. Do you remember      3 returning that call before March the 5th?      4 A. I don't know. I don't recall.      5 Q. All right. Do you remember      6 returning that call before March the 7th?      7 A. I don't know.      8 Q. Okay. And, again, was it your      9 understanding when you received this letter      10 marked Exhibit 7, that the — you were      11 supposed to meet with Rob Clevenger on that      12 Monday morning to talk about the review      13 process?      14 A. Yes, sir. That wasn't a      15 guarantee that I was going to get a job      16 back. That was just a selected panel to see      17 about getting the job back, to go back into      18 the firing.      19 Q. Did you know how the panel      20 selection process worked?      21 A. No, sir.      22 Q. Do you know whether it would      23 have been a panel of your peers that you</p>	<p style="text-align: right;">Page 272</p> <p>1 A. I don't know. I don't know      2 what they have.      3 Q. Okay. But the one you did      4 know of, you didn't use, did you?      5 A. At that point, no, sir. Like      6 I said, I had a family to feed. I can't      7 afford to lose one job for a job I had been      8 fired from already. If I'd have left that      9 job to try and get that review back, I might      10 not have got another job.      11 (Whereupon, Defendant's      12 Exhibit No. 8 was marked      13 for identification.)      14 Q. Let's mark this as Exhibit 8.      15 And this is Dees 3.      16 Mr. Dees, have you had a      17 chance to look at Exhibit 8?      18 A. Yes, sir.      19 Q. Okay. Are you familiar with      20 that exhibit?      21 A. Yes, sir.      22 Q. Okay. Tell me what it is.      23 A. It's a yearly training</p>

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<p>1 calendar schedule for my unit.</p> <p>2 Q. For a period beginning October</p> <p>3 2006?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Is this -- We talked earlier</p> <p>6 about y'all get a training schedule on an</p> <p>7 annual basis. Was this what you were</p> <p>8 talking about there?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. Would this -- Am I</p> <p>11 correct that this would show all training</p> <p>12 dates beginning October 21 of '06 through</p> <p>13 that training year?</p> <p>14 A. When this schedule was made,</p> <p>15 yes, sir. They were subject to change and</p> <p>16 subject to be added to and taken from.</p> <p>17 Q. Okay. Do you know if from</p> <p>18 October 21st going forward, it was in fact</p> <p>19 changed, added to, or subtracted from?</p> <p>20 A. You'd have to call my unit and</p> <p>21 ask them.</p> <p>22 Q. Again, I'm asking you if you</p> <p>23 know.</p>	<p>1 MR. JOHNSON: It's Dees 4.</p> <p>2 A. You got 1 October 05 in the</p> <p>3 upper right-hand corner, but your month and</p> <p>4 dates say '06. This is the company training</p> <p>5 schedule, this is my detachment training</p> <p>6 schedule.</p> <p>7 Q. Okay. Let me make sure.</p> <p>8 MR. SPORT: So somewhere on</p> <p>9 this document is an error, we just don't</p> <p>10 know what it is. It's either in the dates</p> <p>11 or it's on the date of the document. We</p> <p>12 don't know what it is.</p> <p>13 A. This one has company</p> <p>14 commander's signature (indicating), this one</p> <p>15 has my detachment commander's signature</p> <p>16 (indicating).</p> <p>17 Q. All right. Well, let me get</p> <p>18 these marked and we'll talk through them and</p> <p>19 figure out what they show.</p> <p>20 All right. So if we look at</p> <p>21 -- What we've marked Exhibit 9, that shows a</p> <p>22 date of October 1, of '05, but it has drill</p> <p>23 dates in '06; correct?</p>
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<p>1 A. I don't remember. It may</p> <p>2 have, may not have been. I don't know.</p> <p>3 Q. Okay. Do you know -- You'd</p> <p>4 indicated there was sort of an initial point</p> <p>5 at which Greg Prater demanded orders. Do</p> <p>6 you know if any of the -- if any of these</p> <p>7 are the dates that he demanded orders for?</p> <p>8 A. Probably several of them.</p> <p>9 Q. You think more than one</p> <p>10 possibly?</p> <p>11 A. It had to have been October.</p> <p>12 Like I said, it was several, several months.</p> <p>13 (Whereupon, Defendant's</p> <p>14 Exhibit No. 9 was marked</p> <p>15 for identification.)</p> <p>16 Q. Okay. And let's go ahead,</p> <p>17 just so you can have both documents, also</p> <p>18 mark as Exhibit 9, your '05 schedule.</p> <p>19 A. This is an '06 schedule. It</p> <p>20 says '06 on top.</p> <p>21 MR. SPORT: I was wondering</p> <p>22 where you got the '05, because I don't have</p> <p>23 it.</p>	<p>1 A. Yes, sir.</p> <p>2 Q. Does that -- Does that make</p> <p>3 sense to you?</p> <p>4 A. No. I mean, I don't know.</p> <p>5 You'll have to call my unit and ask them.</p> <p>6 Q. Okay.</p> <p>7 A. That would be Sergeant Barnes.</p> <p>8 Q. Look at the fax numbers there</p> <p>9 at the top. Do you recognize any of those</p> <p>10 fax numbers?</p> <p>11 A. Yes, sir.</p> <p>12 Q. What is the -- Do you</p> <p>13 recognize the 334-366-5278?</p> <p>14 A. Yes, sir. That's to my wife.</p> <p>15 Q. That's to your wife?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And the date of that fax</p> <p>18 letter is March 26 of '07; correct?</p> <p>19 A. Yes, sir.</p> <p>20 MR. SPORT: Matt, if I can</p> <p>21 interrupt you.</p> <p>22 MR. JOHNSON: Sure.</p> <p>23 MR. SPORT: It appears those</p>

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<p>1 two pages, page three and four, are pages  2 three and four of a fax that starts with  3 Dees 1 and 2, which you've already marked  4 earlier as Exhibit whatever.</p> <p>5 MR. JOHNSON: Okay.</p> <p>6 MR. SPORT: So it appears on  7 March 26th, Sergeant Barnes faxed all four  8 of those pages. And Dees 5 is simply the  9 original of the fax version of Dees 3. I  10 don't know if that clears anything up, but  11 that's the way it appears.</p> <p>12 Q. Okay. Well, let's go back on  13 the Record.</p> <p>14 Just so I can make sure, if we  15 look at Exhibit 6 and Exhibit -- I'm sorry,  16 Exhibit 8 and Exhibit 9, the 334-366-5278  17 fax number is to your wife; correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And the date is March the  20 26th?</p> <p>21 A. Same day as the letter.</p> <p>22 Q. Same day as the letter, which  23 we previously marked as Exhibit 5. So if</p>	<p>1 A. Company commander is over the  2 detachment commander, we fall under the  3 company.</p> <p>4 Q. So would Shawn Dall have been  5 higher up the chain of command than Kevin  6 Smith?</p> <p>7 A. No, sir.</p> <p>8 Q. I got it backwards?</p> <p>9 A. Yes, sir. Company is down in  10 Fairhope, we're up in Brewton.</p> <p>11 Q. Why would orders come from two  12 different places? Would they not always  13 come from the same place?</p> <p>14 A. That's not orders. That's  15 just the schedule.</p> <p>16 Q. Why would the schedule come  17 from two different places?</p> <p>18 A. Because we're not in the same  19 building as the company. Our company is  20 down in Fairhope, we're up in Brewton.  21 We're in two separate locations.</p> <p>22 Q. Okay. Now, what is the -- and  23 the company is the 1165th Detachment 1?</p>
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<p>1 you'd look -- hold Exhibit 5 up there for  2 just a second.</p> <p>3 A. (Witness complies.)</p> <p>4 Q. All right. So, Mr. Dees, does  5 it make sense to you that Exhibit 5 goes  6 along with Exhibit 8 and 9, as a single fax?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. And it was sent from  9 the National Guard unit?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Were you there on March the  12 26th of '07?</p> <p>13 A. No, sir. I don't believe. I  14 believe that was a weekday.</p> <p>15 Q. Okay.</p> <p>16 A. And if it was, I was at work.</p> <p>17 Q. And who is Kevin Smith?</p> <p>18 A. Company commander.</p> <p>19 Q. And who is Shawn C. Dall?</p> <p>20 A. Detachment commander.</p> <p>21 Q. Okay. What's the difference  22 between company commander and the detachment  23 commander?</p>	<p>1 A. We're Detachment 1, 3rd  2 Platoon, 1165th Military Police Company.</p> <p>3 Q. Okay. So does the training  4 schedule ordinarily come from the detachment  5 or from the company?</p> <p>6 A. That depends on the CO, what  7 he wants, what he tells that lieutenant to  8 do.</p> <p>9 Q. Okay. And the CO being who?</p> <p>10 A. CO being Lieutenant Smith,  11 which is no longer the CO.</p> <p>12 Q. Who is now?</p> <p>13 A. Captain Payne.</p> <p>14 Q. What's his first name?</p> <p>15 A. Captain.</p> <p>16 Q. Or her first name?</p> <p>17 A. I don't know.</p> <p>18 Q. And Captain Payne is in  19 Fairhope?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did you keep records of your  22 training schedule?</p> <p>23 A. I have one posted on my</p>

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<p>1 refrigerator at the house.</p> <p>2 Q. All right. Did you keep it</p> <p>3 for '06?</p> <p>4 A. Do I have it now is what</p> <p>5 you're saying?</p> <p>6 Q. Yes.</p> <p>7 A. Whatever this current year's</p> <p>8 training schedule is on my refrigerator,</p> <p>9 yes.</p> <p>10 Q. All right. But --</p> <p>11 A. Did I keep them from the</p> <p>12 previous?</p> <p>13 Q. Right.</p> <p>14 A. No.</p> <p>15 Q. Okay. Do you have -- Do you</p> <p>16 have a training schedule for the period</p> <p>17 beginning the first part of '07? Will that</p> <p>18 -- I assume that's Exhibit 8 here?</p> <p>19 A. Yes, sir. My company went to</p> <p>20 Fort McClellan for AT this summer, and I</p> <p>21 went this year and I went to Belize for AT.</p> <p>22 Q. AT being annual training?</p> <p>23 A. Annual training.</p>	<p>1 Q. I want to mark those as</p> <p>2 Exhibit 10.</p> <p>3 (Whereupon, Defendant's</p> <p>4 Exhibit No. 10 was marked</p> <p>5 for identification.)</p> <p>6 MR. SPORT: Matt, do I</p> <p>7 understand you'd like me to get you a little</p> <p>8 more legible copy than that?</p> <p>9 MR. JOHNSON: Yes.</p> <p>10 MR. SPORT: I'll scan it and</p> <p>11 e-mail it to you.</p> <p>12 MR. JOHNSON: That would be</p> <p>13 great. I would appreciate that.</p> <p>14 Q. Mr. Dees, let me let you look</p> <p>15 at Exhibit 10. Unfortunately we're going to</p> <p>16 have to share a little bit on Exhibit 10,</p> <p>17 because it's the only copy we've got -- or</p> <p>18 it's the only copy I've got.</p> <p>19 MR. JOHNSON: Do we have</p> <p>20 another copy? Doesn't matter. Just so I</p> <p>21 understand, has any portion of this been</p> <p>22 redacted, Jeff?</p> <p>23 MR. SPORT: Yes.</p>
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<p>1 Q. And where did that take place</p> <p>2 -- I mean when did that take place?</p> <p>3 A. 12 May through 26 May.</p> <p>4 Q. And the training that you were</p> <p>5 just on?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Tell me what that was called</p> <p>8 again.</p> <p>9 A. Basic Noncommissioned Officers</p> <p>10 Course Phase II and III.</p> <p>11 Q. And was your current employer</p> <p>12 aware you were going on that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And is your current employer</p> <p>15 aware that you are back?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. Is your current</p> <p>18 employer aware that you are here today?</p> <p>19 A. Yes, sir.</p> <p>20 Q. We've gotten a copy of some</p> <p>21 cell phone records from your attorneys that</p> <p>22 were faxed to us here today.</p> <p>23 A. Yes.</p>	<p>1 MR. JOHNSON: Do you know</p> <p>2 which portion has been redacted?</p> <p>3 MR. SPORT: Account number and</p> <p>4 carrier.</p> <p>5 MR. JOHNSON: I can see where</p> <p>6 account number is redacted, invoice number</p> <p>7 is redacted --</p> <p>8 MR. SPORT: And the carrier's</p> <p>9 name appears on the page and we redacted</p> <p>10 that. All the phone call information --</p> <p>11 MR. JOHNSON: You mean who</p> <p>12 provided the cell phone service?</p> <p>13 MR. SPORT: Yes.</p> <p>14 MR. JOHNSON: You mean you're</p> <p>15 not going to tell us who he got his cell</p> <p>16 phone from?</p> <p>17 MR. SPORT: I don't think</p> <p>18 you're entitled to it.</p> <p>19 MR. JOHNSON: Well, I'm going</p> <p>20 to ask him about it, and we can argue about</p> <p>21 that later.</p> <p>22 It also suggests here under</p> <p>23 detail for Leon, it says 334, did you redact</p>

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<p>1 his cell phone number?      2 MR. SPORT: Yes.      3 MR. JOHNSON: Are you not      4 wanting us to know what cell phone number he      5 used? I mean was it redacted on purpose?      6 MR. SPORT: Yes.      7 MR. JOHNSON: What was the      8 purpose?      9 MR. SPORT: We originally      10 objected to it because of privacy reasons.      11 It does have something -- The calls made      12 around the date in question do have      13 something to do with the case, so we      14 produced that page, we just don't feel      15 you're entitled to the rest of the      16 information.</p> <p>17 Q. Okay. I'm going to ask you      18 questions now about Exhibit Number 10.      19 Mr. Dees, am I correct that it's your      20 testimony today and previously that on the      21 night in question, when Jim Brookshire saw      22 you up on the third level, you were using      23 your phone to send a text message to your</p>	<p>1 A. 13th, February 13th and 14th.      2 Q. Okay. And you see a telephone      3 call coming in on the 13th?      4 A. I don't remember what day --      5 What day are you talking about? What day      6 are you wanting?      7 Q. Well, what I understand to be      8 the case, and subject to your agreement or      9 disagreement, was that, at least according      10 to the witness statements, Jim Brookshire      11 saw you in the third level at approximately      12 one a.m. on February 14th. So you would      13 have been coming to work on the 13th, I      14 assume.      15 MR. KILBORN: Say that again.      16 MR. JOHNSON: He was seen on      17 February 14th and would have been -- started      18 work on the afternoon or dinnertime on the      19 13th.      20 A. That's going to be it there,      21 the Birmingham, Alabama. 671, whatever it      22 is, six-something p.m.      23 Q. Say that again.</p>
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<p>1 daughter?      2 A. Yes, sir.      3 Q. And what was the text message      4 about?      5 A. To let her know that I was      6 okay.      7 Q. Would there be any reason you      8 would not be okay?      9 A. Well, she was worried.      10 Q. Well, when you say she was      11 worried, how do you know she was worried?      12 A. Because she called me before I      13 got to work on my way to work, I believe.      14 Q. Okay. You think she called      15 you on your cell phone?      16 A. Yes, sir. I believe it's on      17 there.      18 Q. All right. If you can, show      19 me where that is.      20 A. I can't for my life make out      21 -- I don't know. I see the 14:45, incoming.      22 Q. All right. What is the date      23 you're looking at?</p>	<p>1 A. Right here (indicating),      2 whatever this is here. There's two or      3 three. It looks like my wife called or      4 either the youngest daughter called from the      5 house.      6 Q. Are you looking on the 13th      7 there?      8 A. These right here (indicating).      9 Q. The 5:23 p.m., I'm assuming      10 that's what that says.      11 A. Yeah.      12 Q. And then six --      13 A. Let's see. I start -- I think      14 it's these two (indicating), from what I can      15 see. I don't -- Six something, I don't know      16 what that is.      17 Q. All right. Well, let's just      18 -- we'll break this thing out -- it says --      19 the dotted lines going across, there's seven      20 -- this is in the seventh area between the      21 dotted lines.      22 A. That's the Birmingham call      23 there.</p>

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<p style="text-align: right;">Page 289</p> <p>1 Q. All right. The Birmingham 2 call from, and is that 205-389-5974? 3 A. Yes, sir, I believe that's it. 4 Q. All right. Whose number is 5 that? 6 A. That's one of her friends. 7 Q. That's one of your daughter's 8 friends? 9 A. Yes. 10 Q. So you think that was your 11 daughter calling from Birmingham? 12 A. They was down in the basement. 13 She had left her phone in the room. 14 Q. Okay. 15 A. They put them down in the 16 basement because of the weather. 17 Q. Okay. And the call right 18 before that, from a 334 number in 19 Maplesville, is that your home number or 20 your wife's number? 21 A. That's my home number. 22 Q. Okay. And then the next 23 number from Maplesville, I'm assuming that's</p>	<p style="text-align: right;">Page 291</p> <p>1 Q. Okay. Let me ask you here. 2 Looks like on February 14th, there's a 3 couple of incoming calls from -- I'm 4 guessing that's 334-419-1445? 5 A. That's my number. It says 6 incoming. I don't know who it was. 7 Q. That's your home phone number? 8 A. No, sir. That's my cell 9 number. I don't know who was calling. I 10 don't know. It just lists it as an incoming 11 call. 12 Q. Well, on your cell phone 13 records does it list as an incoming call -- 14 A. It's listed there as an 15 incoming call. 16 Q. I'm just trying to figure out, 17 it looks to me -- I'm just trying to read 18 your records, does it not make more sense 19 that the calls to Maplesville and Birmingham 20 were calls that were made by you to somebody 21 else? 22 A. No, sir. Like this here 23 (indicating), it lists my number, that means</p>
<p style="text-align: right;">Page 290</p> <p>1 also your home number? 2 A. Yes, sir. 3 Q. Okay. Can you read what time 4 that came in to you? 5 A. I have no idea. 6 Q. Okay. 7 A. Something P, twenty-eight P. 8 Q. All right. Now, do you carry 9 your personal cell phone with you when you 10 were in the plant? 11 A. Yes, sir. 12 Q. All the time? 13 A. Reason being, those radios -- 14 like I said, those radios, sometimes they 15 work, sometimes they didn't. A lot of times 16 we would -- Prater told us if we had a 17 breakdown over five or ten minutes, to call 18 him at home, no matter what time of the 19 night it was. And we got called by him on 20 our personal phones that we paid for the 21 calls a lot of times on breakdowns. I even 22 had to call Mr. Moon several times on 23 breakdowns.</p>	<p style="text-align: right;">Page 292</p> <p>1 they don't know who the number was that 2 called me. 3 Q. Oh, okay. So is it -- is this 4 all incoming calls or does it -- On your 5 phone records, does it separately list calls 6 that you made outgoing? 7 A. I ain't never been asked 8 before, so . . . 9 Q. All right. Does it separately 10 list calls -- text messages that goes out? 11 A. It just charges you for each 12 text message. 13 Q. Okay. Does it indicate when 14 you made those text messages? 15 A. No, sir. You just get a 16 charge. 17 Q. All right. Do you still have 18 the same telephone number? 19 A. Yes, sir. 20 Q. And have you reviewed your 21 telephone to see if you still have the text 22 messages on it from this period of time? 23 A. A year ago? No, sir. I never</p>

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<p style="text-align: center;">Page 293</p> <p>1 did get through that night. The weather was 2 bad. Sometimes it could be sunny outside 3 and for some reason you may not get through, 4 you may get through.</p> <p>5 Q. And just to be safe, I want to 6 make sure we're clear. When you said a year 7 ago, I'm talking about back in February of 8 this year?</p> <p>9 A. All right. This is November.</p> <p>10 Q. Okay. I just want to make 11 sure you were also talking about February of 12 this year.</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. Do you – Do you have 15 any idea whether your cell phone records 16 show anything about text messages incoming 17 or outgoing as per a specific time?</p> <p>18 A. You get a charge, ten cents 19 per message, period.</p> <p>20 Q. And what is your complete 21 telephone number, cell phone number? And I 22 promise I won't use it to call you.</p> <p>23 A. If you're writing it down, I</p>	<p style="text-align: center;">Page 295</p> <p>1 be an incoming call. 2 A. If I get an incoming call and 3 it comes up unknown number, they can't get 4 the number, they put my number down.</p> <p>5 Q. Okay. And what about if it's 6 an incoming call from your daughter, what 7 does it show?</p> <p>8 A. That's it right there, 9 Birmingham.</p> <p>10 Q. And what if you make a call to 11 your daughter in Birmingham?</p> <p>12 A. Well, hold on, let me see if I 13 can find one.</p> <p>14 Q. And, again, this is for your 15 attorney's benefit --</p> <p>16 A. That may have been a call to 17 her friend's phone, I don't know.</p> <p>18 MR. JOHNSON: Without the 19 complete records, Mr. Sport, I'm having a 20 difficult time making heads or tails of this 21 thing.</p> <p>22 MR. SPORT: What else is 23 there?</p>
<p style="text-align: center;">Page 294</p> <p>1 ain't saying it.</p> <p>2 Q. I need you to say it.</p> <p>3 A. 334-419-1445. I thought you 4 weren't going to write it down.</p> <p>5 Q. I never said that.</p> <p>6 Again, I'll make a promise to 7 you, I'm not going to give it to anybody 8 who's going to give it out.</p> <p>9 MR. KILBORN: That's covered 10 by the protective order we agreed on; right?</p> <p>11 MR. JOHNSON: That's fine. I 12 agree.</p> <p>13 Q. Do you know if you made any 14 outgoing telephone calls on the night in 15 question?</p> <p>16 A. You've got the record.</p> <p>17 Q. Okay. Again, it's hard for me 18 to, one, read it; and, two, it's hard to 19 tell which is incoming and which is 20 outgoing. I mean, are -- because I think 21 what you told me earlier was that the ones 22 that say, for instance, Birmingham, Alabama, 23 isn't necessarily an outgoing call, it might</p>	<p style="text-align: center;">Page 296</p> <p>1 MR. KILBORN: Hold on. We 2 gave you what you asked for. Now, we can 3 stop there.</p> <p>4 We asked to inspect the plant. 5 Somebody on the legal team took the position 6 that we were a couple days late, therefore, 7 we couldn't inspect the plant. Now, I'll 8 give you plenty more discovery which I don't 9 have to give you, as an accommodation, but I 10 expect the same.</p> <p>11 MR. JOHNSON: I think you have 12 to give us his cell phone records. I was 13 trying to be gracious to you and your client 14 by not demanding them all. And I haven't 15 demanded them all. All I'm doing is saying 16 now that we're at the deposition and I can't 17 make heads nor tails of it in order to 18 examine the witness, then it's appropriate 19 for me to get.</p> <p>20 MR. KILBORN: This was covered 21 by your request for production, that's why 22 we gave it to you.</p> <p>23 MR. JOHNSON: I think</p>

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1 technically, it's all covered by the request 2 for production and the protective order. 3 MR. KILBORN: What period of 4 time? 5 MR. JOHNSON: For the night in 6 question, and that would include -- 7 MR. KILBORN: That is in 8 response to the request for production. 9 MR. JOHNSON: I think it's 10 fair for me to get the whole record. You're 11 giving me one page out of -- 12 MR. SPORT: What are you 13 asking me for? 14 MR. JOHNSON: What I'm asking 15 you for is all seven pages of that invoice 16 so I can make the interpretation fairly 17 whether or not there is other information 18 that helps me to interpret the single page 19 that you've provided in a redacted version. 20 I'm not fussing at you for 21 redacting it, that's perfectly fine with me. 22 What I'd like to see is the entire invoice. 23 And I also want --	1 incident. It does not necessarily mean that 2 you're not going to give me the entire 3 invoice. 4 MR. KILBORN: I think it does. 5 I'm just telling you that I don't mind 6 discussing a fair exchange of documents, but 7 I want the same consideration and not some 8 technicality that we were two days late. 9 Let me just say this. Let me 10 look at the entire bill. I don't 11 necessarily -- I don't necessarily think 12 there's a problem, but I don't think it's 13 going to help you and here's why. I used to 14 be with a carrier that provided a bill like 15 this. My current carrier actually shows to 16 and from, so you know if it's outgoing or 17 incoming. These don't do that. But my 18 former carrier that gave me a bill identical 19 to this, this is what it means, and you can 20 make this out, kind of sort of. And when I 21 give you the cleaner copy, you'll be able to 22 see. This says number called, that's that 23 column title, this column is entitled	1 destination called. 2 When you see destination 3 called and a city, I believe that indicates 4 an outgoing call; and when there's an 5 incoming call, instead of a destination 6 city, it says incoming call. That's what I 7 believe this means. Other than contacting 8 the carrier and confirming that, I don't 9 know how the rest of the bill will help you. 10 MR. JOHNSON: Again, you 11 hadn't provided that to us, so I don't know. 12 It may not, I agree with you. But I can't 13 feel like I'm doing my job -- 14 MR. SPORT: Is that your 15 question, you want to know what's outgoing 16 and what's incoming? 17 MR. KILBORN: Let's go off the 18 Record and you and I will talk. Take a 19 break. 20 (Recess taken.) 21 (Whereupon, Defendant's 22 Exhibit No. 11 was marked 23 for identification.)
1 MR. KILBORN: What did you ask 2 for? 3 MR. JOHNSON: I asked for the 4 whole thing and he said he would provide me 5 records -- 6 MR. KILBORN: You did? 7 MR. JOHNSON: -- from the 8 evening in question. 9 MR. KILBORN: Will you show me 10 that request? 11 MR. JOHNSON: Okay. 12 All I can say is that by fax 13 dated August the 9th, your partner, 14 Mr. Sport, said: Your statement that we 15 agreed to, quote, produce copies of your 16 client's mobile phone records inclusive of 17 the entire shift he worked on the night in 18 question is incorrect. Rather he says: We 19 agreed to produce our client's cell phone 20 records for the time period in question 21 only. 22 All right. The time period in 23 question only would be the night of this	1 destination called. 2 When you see destination 3 called and a city, I believe that indicates 4 an outgoing call; and when there's an 5 incoming call, instead of a destination 6 city, it says incoming call. That's what I 7 believe this means. Other than contacting 8 the carrier and confirming that, I don't 9 know how the rest of the bill will help you. 10 MR. JOHNSON: Again, you 11 hadn't provided that to us, so I don't know. 12 It may not, I agree with you. But I can't 13 feel like I'm doing my job -- 14 MR. SPORT: Is that your 15 question, you want to know what's outgoing 16 and what's incoming? 17 MR. KILBORN: Let's go off the 18 Record and you and I will talk. Take a 19 break. 20 (Recess taken.) 21 (Whereupon, Defendant's 22 Exhibit No. 11 was marked 23 for identification.)	

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<p>1       Q. All right. Mr. Dees, we're 2 going back on the Record now, just so you 3 know.</p> <p>4       Let me show you what I have 5 marked as Defendant's Exhibit 11. And I 6 know that you and your attorneys had an 7 opportunity to look at that just before we 8 got started; is that correct?</p> <p>9       A. Yes, sir. We had just seen 10 the box before we got started?</p> <p>11      Q. Right.</p> <p>12      A. Yes, sir.</p> <p>13      Q. And just for the Record, I 14 gave you a box of items; correct?</p> <p>15      A. Yes, sir.</p> <p>16      Q. And you reviewed the contents 17 of the box?</p> <p>18      A. Yes, sir.</p> <p>19      Q. And were the contents of the 20 box consistent with what's indicated on 21 Exhibit 11?</p> <p>22      A. Yes, sir. But you got to take 23 into account, like I said, my locker was</p>	<p>1       that you mentioned earlier?</p> <p>2       A. Yeah. I mean, I had Army pay 3 stubs in there, with my account number, 4 where my money is being sent, my social, all 5 my information pertaining to my Army -- my 6 account that my Army check goes into, and my 7 military service --</p> <p>8       Q. Did they get sent to you --</p> <p>9       A. -- notes. No, they didn't get 10 sent to me. The only thing I received since 11 I left was when you brought that box today. 12 I haven't received, I haven't heard from 13 them, nothing.</p> <p>14      Q. Your Army pay stubs, were 15 those sent to you at Hyundai? Did you 16 receive your paycheck at Hyundai?</p> <p>17      A. No, sir. I had it in my 18 pocket, and carried it in there, and forgot 19 it, took it out and put it in my locker.</p> <p>20      Q. Is it one pay stub?</p> <p>21      A. No. It's several. But like I 22 said, it had my savings account number, my 23 Social Security number, it had everything on</p>
<p>1       left unlocked for several months, then a 2 lock was placed on it, then a lock was taken 3 off, and then whoever -- one of y'all was 4 videoed taking the contents out of the 5 box --</p> <p>6       Q. Okay.</p> <p>7       A. I mean, out of the locker.</p> <p>8       Q. Okay.</p> <p>9       A. I mean, there's no chain of 10 custody there.</p> <p>11      Q. Okay. But I just want to make 12 sure that we're clear on the box of items 13 that was given to you today was consistent 14 with what's listed on that sheet?</p> <p>15      A. You can have them back.</p> <p>16      That's not my stuff on that box. The tools 17 belong to Hyundai.</p> <p>18      Q. Now, let me ask you this. 19 With respect to the list of items there on 20 Exhibit Number 11, do you have any reason to 21 think at the time of your termination there 22 were other items in that locker, other than 23 the jacket that you got back and some notes</p>	<p>1       there.</p> <p>2       Q. Your pay stubs have your 3 Social Security number on it and your 4 account number for your bank?</p> <p>5       A. An Army pay stub, yes, sir, it 6 does.</p> <p>7       Q. Do you have subsequent Army 8 pay stubs?</p> <p>9       A. Yes, sir, somewhere.</p> <p>10      Q. All right. The ones that you 11 do have, are they in the same format and 12 look just like the ones that were in your 13 locker on date of termination?</p> <p>14      A. Yes, sir. It's got my rank, 15 my years of service, unit.</p> <p>16      Q. And this is just a pay stub, 17 that's all we're talking about?</p> <p>18      A. Yeah. There was a couple of 19 them. I mean I don't know.</p> <p>20      Q. All right.</p> <p>21      A. At the time, yeah, I left a 22 lot of stuff in there. That was back in 23 February. And y'all show up with stuff that</p>
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<p style="text-align: right;">Page 305</p> <p>1 don't even belong to me. That stuff there 2 belonged to Hyundai. You can carry it back 3 to them. My personal stuff, they left. 4 Prater went in, left my tool 5 bag, everything out there, everything in my 6 locker, and brought me that jacket with that 7 little MP3 player and my notes was missing 8 and everything is -- and this here, I can't 9 even read hardly.</p> <p>10 Q. I'm trying to figure out what 11 else you had in your locker, other than 12 what's on that list, the MP3 player, the 13 notes, the pay stubs, and the jacket. Can 14 you think of anything?</p> <p>15 A. No, sir.</p> <p>16 Q. Was there anything else of 17 value in that locker?</p> <p>18 A. I don't know.</p> <p>19 Q. Okay.</p> <p>20 A. I don't know.</p> <p>21 Q. Now, how many Army pay stubs 22 would there have been?</p> <p>23 A. There was two or three.</p>	<p style="text-align: right;">Page 307</p> <p>1 come with an actual check? 2 A. No, sir. 3 Q. And is it on a 4 eight-and-a-half-by-eleven, normal sheet of 5 paper size thing? 6 A. Yes, sir. 7 Q. And I assume, like regular pay 8 stubs, it shows, you know, what your gross 9 is, what they took out, what they withheld 10 for taxes, and that kind of stuff? 11 A. Yes, sir. 12 Q. Okay. Anything else you can 13 think of that was in your locker? 14 A. I don't know. I hadn't 15 thought about it today. 16 Q. All right. Well, have you 17 thought about it before today? 18 A. A while back, after I'd gotten 19 fired, yes, sir, I did. 20 Q. All right. Did you write down 21 what you thought was in your locker at that 22 point in time, take notes on it? 23 A. No, sir, I did not. I was</p>
<p style="text-align: right;">Page 306</p> <p>1 Q. Two or three? 2 A. Yes, sir. 3 Q. Okay. And do you know what 4 months they were for? 5 A. No, sir. 6 Q. Do you remember when you put 7 them in your locker? 8 A. No, sir. 9 Q. Do you remember how long they 10 were in your locker? 11 A. No, sir. 12 Q. Do you remember showing them 13 to anybody or talking to anybody about it? 14 A. No, sir. 15 Q. And when you say pay stubs, 16 are they literally pay stubs where you tear 17 the check off the bottom half? 18 A. No, sir. It's a computer 19 printout. 20 Q. Okay. It just shows what was 21 direct deposited into your account? 22 A. Yes, sir. 23 Q. Okay. So it doesn't actually</p>	<p style="text-align: right;">Page 308</p> <p>1 flustered, I was mad. 2 Q. Does being mad make you not 3 take notes? 4 A. No, sir. That didn't have 5 nothing to do with me not taking notes. 6 Q. Okay. 7 A. That had everything to do with 8 me being flustered and mad because I had 9 gotten fired for somebody recommending that 10 I be fired, off of a recommendation that he 11 had made. It's right there in your letter 12 that you had, that he recommended it. 13 Q. What are you talking about? 14 A. Prater. He recommended it. 15 Q. I know what you're talking 16 about. But you're referring to Prater? 17 A. Yeah. It said he recommended 18 it: Based on this conversation, I feel that 19 even if he were not sleeping, that he 20 doesn't care enough about his job to defend 21 anyone from thinking he was sleeping. John, 22 my recommendation is termination. 23 Q. What exhibit are you referring</p>

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<p>1 to?</p> <p>2 A. Number 6.</p> <p>3 (Whereupon, Defendant's</p> <p>4 Exhibit No. 12 was marked</p> <p>5 for identification.)</p> <p>6 Q. Okay. Let me show you what</p> <p>7 we've marked as Exhibit 12, and that's Dees</p> <p>8 versus HMMA number 6, deposition Exhibit 12.</p> <p>9 A. Where is 9? Or have I got</p> <p>10 them. I got them backwards. Hold on.</p> <p>11 Q. Do you recognize that</p> <p>12 document, Mr. Dees?</p> <p>13 A. I've never seen this document.</p> <p>14 Q. You've never seen that</p> <p>15 document?</p> <p>16 Is it your testimony you've</p> <p>17 never seen that?</p> <p>18 A. Not until -- I believe I saw</p> <p>19 it yesterday, but prior to that, no, I'd</p> <p>20 never seen this document.</p> <p>21 Q. You indicated that when you</p> <p>22 met with Wendy Warner and some others at the</p> <p>23 time of your termination, Wendy Warner had a</p>	<p>1 HMMA management in the third floor overhead</p> <p>2 sleeping. HMMA policy states, quote,</p> <p>3 serious and excessive violations of HMMA's</p> <p>4 performance standards, end quote, is a</p> <p>5 serious misconduct violation.</p> <p>6 I won't read the whole thing,</p> <p>7 but since you're looking at Exhibit 12, what</p> <p>8 you're reading there, is that consistent</p> <p>9 with what she read to you?</p> <p>10 A. I don't know. Like I said, I</p> <p>11 had been floored. The only thing I heard</p> <p>12 was sleeping and terminated immediately, and</p> <p>13 I couldn't believe it.</p> <p>14 Q. Okay.</p> <p>15 A. I mean, that was --</p> <p>16 Q. Do you -- Just so I can make</p> <p>17 sure that the Record is clear, what does</p> <p>18 cleaning the pit involve?</p> <p>19 A. Cleaning the pit involves</p> <p>20 picking all the scrap up around the</p> <p>21 conveyors that's fallen while the presses</p> <p>22 are running. And you have a -- It's very</p> <p>23 dangerous because you're doing it, you're</p>
<p style="text-align: center;">Page 310</p> <p>1 piece of paper that as you testified,</p> <p>2 slammed it on the table?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Did you read that document?</p> <p>5 A. No, sir, I didn't read it.</p> <p>6 She read a document that she had in her hand</p> <p>7 that she was holding up at an angle that she</p> <p>8 could see. I was sitting across the table</p> <p>9 from her. She read the document, she</p> <p>10 finished it, placed it face down on the</p> <p>11 table like that (indicating).</p> <p>12 Q. Do you remember anything about</p> <p>13 what she read out loud to you?</p> <p>14 A. Just that I had been accused</p> <p>15 of sleeping and I was being terminated</p> <p>16 immediately.</p> <p>17 Q. All right. Was that on</p> <p>18 February 26th?</p> <p>19 A. That was it.</p> <p>20 Q. Do you remember if the letter</p> <p>21 said anything like this: Dear Leon, it has</p> <p>22 been brought to my attention on February</p> <p>23 14th, 2007, you were found by a member of</p>	<p style="text-align: center;">Page 312</p> <p>1 down there, you have no communication, if</p> <p>2 anything happens to you, you're there until</p> <p>3 someone decides to come looking for you.</p> <p>4 Q. Would you go there without</p> <p>5 telling somebody you're in it?</p> <p>6 A. I wouldn't go there unless</p> <p>7 told to go there.</p> <p>8 Q. Would the -- Are the -- You</p> <p>9 say the presses are running when you're down</p> <p>10 there?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And I want to make sure I</p> <p>13 understand. I mean, the presses aren't some</p> <p>14 giant thing that comes down and stamps where</p> <p>15 you're actually standing when you're</p> <p>16 cleaning out the pit, is it?</p> <p>17 A. No, sir. But the scraps are</p> <p>18 falling down where you're actually standing.</p> <p>19 I mean, it's falling onto a metal conveyor,</p> <p>20 but the reason you're having to go clean the</p> <p>21 pit is because it bounces out of that</p> <p>22 conveyor onto the floor. And you do -- you</p> <p>23 get stuck. You've got little protective</p>

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<p style="text-align: right;">Page 313</p> <p>1 gloves, but it only covers your forearms and 2 your hands, everything else is fair game. 3       <b>Q.</b> But what we're talking about 4 is picking up or removing, essentially, 5 debris from the stamping equipment that 6 comes off a conveyor belt? 7       A. No, sir. We're talking about 8 putting yourself in a hazardous situation 9 with scrap falling thirty foot into a chute, 10 bouncing off a metal conveyor, coming down 11 right beside your head, your back, your 12 neck, everything else that's exposed. And 13 the gloves you're wearing is only cut 14 resistant, not cut proof. 15       <b>Q.</b> Do you have any reason to 16 think that working in the pit is 17 unreasonably dangerous or inappropriate? 18       A. It's very dangerous. Like I 19 said, you got sharp steel coming down 20 through these chutes, sheet metal, some of 21 it is perfectly square corners, some of it 22 comes out to a razor point. And that's the 23 reason you're cleaning it, because it</p>	<p style="text-align: right;">Page 315</p> <p>1       <b>Q.</b> Did you ever see -- Do y'all 2 have a nurse or doctor on site at the plant? 3       A. Yes, sir. But you was 4 discouraged from going there. 5       <b>Q.</b> Did you ever get hurt and go 6 there? 7       A. No, sir, I never went there. 8       <b>Q.</b> Okay. 9       A. If I got a cut, I covered it 10 up and I drove home. 11       <b>Q.</b> Did you ever file any 12 complaints to anybody in management about 13 the pit? 14       A. Yes, sir, I did. Several 15 times. 16       <b>Q.</b> Who was that? 17       A. I went to HR and Applegate. 18       <b>Q.</b> Did you file any written 19 complaints? 20       A. No, sir. Like I said, they 21 didn't have a format or process for filing 22 written complaints. 23       <b>Q.</b> Okay. When you talked to</p>
<p style="text-align: right;">Page 314</p> <p>1 doesn't stay in the conveyor, it bounces out 2 all over the place. And if you get hit by 3 it, you get cut no matter what you're 4 wearing. 5       <b>Q.</b> To your knowledge, has anybody 6 been injured because of the pit? 7       A. Several people has been -- 8 Well, I believe somebody has. I don't 9 remember who it was. 10      <b>Q.</b> You don't recall? 11      A. No. 12      <b>Q.</b> Okay. 13      A. The metal is very sharp. 14 They've got numerous instances of people 15 getting cut by that metal. 16      <b>Q.</b> Is there -- Did you ever get 17 cut by the metal? 18      A. I got -- Yes, sir. Not bad 19 cuts where I had to have stitches, no. 20      <b>Q.</b> Did you file any sort of 21 worker's comp claim or report an injury or 22 anything like that? 23      A. No, sir.</p>	<p style="text-align: right;">Page 316</p> <p>1       <b>Applegate, what did he say about the pit?</b> 2       A. Like I said this morning, he 3 said it all pays the same, what's your 4 problem. 5       <b>Q.</b> Who did you talk to in HR 6 about the pit? 7       A. I believe it was Keisha. 8       <b>Q.</b> Keisha. And what did she say 9 about the pit? 10      A. She said she would get with 11 Applegate and Prater. The next thing I know 12 I'm going to talk to Applegate. 13      <b>Q.</b> Okay. Do you have any reason 14 to think you've been discriminated against 15 or harassed for any other protected 16 characteristic like sex, age, race? 17      A. Everything stems around my 18 military career, everything. Like I say, it 19 all started with harassment about my orders. 20 Everything had to do with my weekend drill, 21 all the way from Prater to HR. Every time 22 I'd go to them, the letter from my unit, the 23 e-mail, everything all the way to the</p>

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<p style="text-align: right;">Page 317</p> <p>1 recommendation for Prater saying I recommend 2 him for termination, everything stemmed 3 around my Guard duty.</p> <p>4 Q. Okay. And so I'm assuming 5 that since you're saying everything stems 6 from your Guard duty, I'm assuming it would 7 be safe to rule out any other issues, like 8 age, race, sex, religion, anything like 9 that?</p> <p>10 A. I reckon.</p> <p>11 Q. You would agree?</p> <p>12 A. I mean, I don't know what --</p> <p>13 Q. Let me ask you this --</p> <p>14 A. Like I said, everything come 15 from my Guard duty. As far as to my 16 knowledge, everything from the beginning 17 from when it started, to the end, to my 18 knowledge, seemed like it come from my Guard 19 duty and my commitment to the Guard.</p> <p>20 Q. Let me ask you some pretty 21 simple questions. Were you terminated 22 because of your age?</p> <p>23 A. Well, they say I was</p>	<p style="text-align: right;">Page 319</p> <p>1 just want to rule out that there's no other 2 lawsuits coming in the future related to 3 this.</p> <p>4 MR. KILBORN: You're not. 5 That's guaranteed.</p> <p>6 MR. JOHNSON: Okay.</p> <p>7 Q. And when did you first start 8 taking notes about the harassment issues?</p> <p>9 A. The very first time it 10 happened.</p> <p>11 Q. The very first time?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. And did you ever show 14 your notes to any of your coworkers?</p> <p>15 A. We went through this this 16 morning.</p> <p>17 Q. That's right. Did you ever 18 show them to anybody in HR?</p> <p>19 A. No, sir.</p> <p>20 Q. And would it be fair to state 21 that --</p> <p>22 A. I never showed them to no one 23 in HR, but I made the complaints from my</p>
<p style="text-align: right;">Page 318</p> <p>1 terminated because I was sleeping. But, 2 like I say, that all started because of my 3 Guard duty.</p> <p>4 Q. Are you saying you were 5 terminated because of your age?</p> <p>6 A. I'm not saying anything. I'm 7 saying I was terminated because of my Guard 8 duty is what I'm saying.</p> <p>9 Q. Were you discriminated against 10 because of your age?</p> <p>11 A. Like I said before, I believe 12 I was terminated against because of my Guard 13 duty service.</p> <p>14 Q. Were you discriminated against 15 because of your age?</p> <p>16 A. I have no idea.</p> <p>17 Q. Is that a yes or no, were you 18 or weren't you?</p> <p>19 MR. KILBORN: Don't raise your 20 voice. We're not suing over any type of 21 discrimination other than the circumstances 22 that we sued over.</p> <p>23 MR. JOHNSON: I agree. And I</p>	<p style="text-align: right;">Page 320</p> <p>1 notes to HR. When I went to HR, I discussed 2 what was on my notes.</p> <p>3 Q. Okay.</p> <p>4 A. Did I pull them out and show 5 them to them? No.</p> <p>6 Q. Other than with respect to 7 your military service, how was your 8 relationship with Greg Prater?</p> <p>9 A. He was my boss, I was the 10 employee.</p> <p>11 Q. I mean, was he a good boss?</p> <p>12 A. No.</p> <p>13 Q. Why not?</p> <p>14 A. I mean, well, you talked to my 15 coworkers.</p> <p>16 Q. I'm talking to you now.</p> <p>17 A. He has no supervisory skills.</p> <p>18 Q. Okay. What makes you say 19 that?</p> <p>20 A. His mismanagement of funds, 21 his mismanagement of time.</p> <p>22 Q. Mismanagement of funds, how?</p> <p>23 A. Not ordering parts, then when</p>

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<p style="text-align: right;">Page 321</p> <p>1 he ordered parts, he ordered too many of the 2 wrong thing and not having money to order 3 the right parts.</p> <p>4     <b>Q. Mismanagement of time, how is</b> 5     <b>that?</b></p> <p>6     A. Scheduling people to come in 7 on the weekend to work and not having the 8 parts there to do the job.</p> <p>9     <b>Q. Did you have any problems with</b> 10 <b>Greg Prater because of that? Did you tell</b> 11 <b>him he was a bad manager?</b></p> <p>12     A. No, sir. It wasn't my job.</p> <p>13     <b>Q. Did you ever suggest to him</b> 14 <b>that he wasn't a good manager?</b></p> <p>15     A. No, sir. I was being paid to 16 do a job, and I did the job I was paid to 17 do.</p> <p>18     <b>Q. Did you ever indicate to him</b> 19 <b>that he didn't do his job well?</b></p> <p>20     A. No, sir.</p> <p>21     <b>Q. Okay.</b></p> <p>22     A. Several others did, but not 23 me.</p>	<p style="text-align: right;">Page 323</p> <p>1     <b>Barnes got sent?</b></p> <p>2         A. Yes, sir. That's why I had 3 Sergeant Barnes send the letter. That's why 4 I made a complaint to my unit, and Sergeant 5 Richberg made the recommendation.</p> <p>6         <b>Q. Okay.</b></p> <p>7         A. Like I said earlier, the only 8 thing HR was concerned about was he told us 9 we couldn't talk to them. They could care 10 less whether his harassment about my Guard 11 service or not.</p> <p>12         <b>Q. All right. How was Greg</b> 13 <b>Prater viewed by your coworkers?</b></p> <p>14         A. You'll have to ask them that.</p> <p>15         <b>Q. Well, did they ever say</b> 16 <b>anything to you about what they thought of</b> 17 <b>him?</b></p> <p>18         A. Yeah.</p> <p>19         <b>Q. What did they say?</b></p> <p>20         A. I don't remember specific 21 quotes. He wasn't very popular.</p> <p>22         <b>Q. Okay. Did he have specific</b> 23 <b>problems with anybody?</b></p>
<p style="text-align: right;">Page 322</p> <p>1     <b>Q. Not you? You never did?</b></p> <p>2     A. No, sir.</p> <p>3     <b>Q. Okay. Now, before the letter</b> 4 <b>was sent from Sergeant Barnes, back in</b> 5 <b>October –</b></p> <p>6     A. Yes, sir.</p> <p>7     <b>Q. – did you have any problems</b> 8 <b>with Greg Prater?</b></p> <p>9     A. That's the reason the letter 10 was sent.</p> <p>11     <b>Q. Okay. And prior to that time</b> 12 <b>in October, can you think – do you have any</b> 13 <b>idea how many times you had issues with Greg</b> 14 <b>Prater?</b></p> <p>15     A. I don't know.</p> <p>16     <b>Q. Was it one instance and then</b> 17 <b>Sergeant Barnes – you had Sergeant Barnes</b> 18 <b>send that letter?</b></p> <p>19     A. No, sir. If it had been one 20 incident, I wouldn't have sent it. I don't 21 hit the panic button for no reason.</p> <p>22     <b>Q. Had you gone to human</b> 23 <b>resources before the letter from Sergeant</b></p>	<p style="text-align: right;">Page 324</p> <p>1         A. You'll have to ask them that. 2 I can't testify as to their problems they 3 had with or without him. I don't know.</p> <p>4         <b>Q. Do you remember anything any</b> 5 <b>of your coworkers ever said about problems</b> 6 <b>they were having with Prater?</b></p> <p>7         A. No, sir.</p> <p>8         <b>Q. Do you recall any of your</b> 9 <b>coworkers ever arguing with Prater in your</b> 10 <b>presence?</b></p> <p>11         A. Well, that very first day we 12 went to HR, everybody was arguing with him.</p> <p>13         <b>Q. About what?</b></p> <p>14         A. When he told us we couldn't go 15 to HR. And Chris Weihe jumped on him about 16 making fun of my military career and about 17 harassing me about my military career.</p> <p>18         <b>Q. What did Chris say?</b></p> <p>19         A. I don't remember exact words. 20 I don't know.</p> <p>21         <b>Q. Were you there when he said</b> 22 <b>them?</b></p> <p>23         A. Oh, yeah, we was there. The</p>

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<p>1 whole shift was there.</p> <p>2       <b>Q. Do you remember approximately</b></p> <p>3 what Chris said?</p> <p>4       A. No. That was over a year ago.</p> <p>5       <b>Q. Okay. Can you think of</b></p> <p>6 anybody other than Chris Weihe that might</p> <p>7 have said something to Prater about your</p> <p>8 military service?</p> <p>9       A. Some of the fellows on the</p> <p>10 other shift said they did, I don't know.</p> <p>11     <b>Q. Do you know if Chris Weihe is</b></p> <p>12 still working at the plant?</p> <p>13     A. Yes, he is.</p> <p>14     <b>Q. He hasn't been terminated for</b></p> <p>15 taking up for you or anything like that?</p> <p>16     A. No. Well, I take that back,</p> <p>17 Drake and -- Who is it? I think it was</p> <p>18 Drake and Hanks both said something to him.</p> <p>19     <b>Q. To who?</b></p> <p>20     A. Prater.</p> <p>21     <b>Q. Do you know what they said?</b></p> <p>22     A. No.</p> <p>23     <b>Q. Were you there when they said</b></p>	<p>1 basically a ruse, a joke.</p> <p>2       <b>Q. How did he say that?</b></p> <p>3       A. Y'all ain't nothing but a</p> <p>4 bunch of weekend wienie wannabe's, something</p> <p>5 of that nature. And all the time -- Like I</p> <p>6 said, you got a fellow sitting here saying</p> <p>7 he's been to Baghdad, talking about how many</p> <p>8 people he's killed and everything, and then</p> <p>9 all of a sudden you've been over there a</p> <p>10 couple times, you've done it, and sitting</p> <p>11 there and telling you you're a joke. I</p> <p>12 mean, as far as actual knock-down dragouts,</p> <p>13 no, I don't -- I can control myself better</p> <p>14 than that.</p> <p>15     <b>Q. What about him? Did he ever</b></p> <p>16 yell at you?</p> <p>17     A. He yelled at everybody.</p> <p>18     <b>Q. When you say yelled, did he</b></p> <p>19 literally raise his voice?</p> <p>20     A. Oh, yeah. When I say he</p> <p>21 yelled, yes, he yelled.</p> <p>22     <b>Q. Did he ever yell at you about</b></p> <p>23 your military service?</p>
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<p>1 it?</p> <p>2       A. Yeah. But that was -- that</p> <p>3 was -- that was a pretty good -- pretty big</p> <p>4 meeting. And I -- He had jumped on me</p> <p>5 pretty hard about my Guard duty that day.</p> <p>6       <b>Q. How did he jump on you?</b></p> <p>7       A. Telling me that all we did was</p> <p>8 go down there and party, we didn't train.</p> <p>9       <b>Q. Was it --</b></p> <p>10     A. All we was was a bunch of</p> <p>11 losers wanting to play army.</p> <p>12     <b>Q. Was that the worst incident?</b></p> <p>13     A. Was that the worst incident?</p> <p>14 Probably not. That was probably the worst</p> <p>15 group incident.</p> <p>16     <b>Q. Okay. What was the worst</b></p> <p>17 incident that the two of you had?</p> <p>18     A. I mean, we never -- I never</p> <p>19 got in a shouting match.</p> <p>20     <b>Q. What is the worst thing he</b></p> <p>21 ever said to you?</p> <p>22     A. Like I said, basically telling</p> <p>23 me I wasn't -- that my military career was</p>	<p>1       A. Yeah.</p> <p>2       <b>Q. What did -- How did he yell at</b></p> <p>3 you? What did he yell at you?</p> <p>4       A. You're going to bring me some</p> <p>5 military orders. And come in Monday:</p> <p>6 Where's my orders? If you don't bring them,</p> <p>7 you're going to get wrote up. You're going</p> <p>8 to get fired for your military service. You</p> <p>9 were supposed to be here this weekend.</p> <p>10     If you haven't talked to him,</p> <p>11 I'm sure you will, which I'm sure you have.</p> <p>12     <b>Q. Anything else that he said?</b></p> <p>13     A. I don't remember. I mean, it</p> <p>14 was -- it was an ongoing event for several,</p> <p>15 several months.</p> <p>16     <b>Q. But I need to make sure I know</b></p> <p>17 what he did.</p> <p>18     A. Okay. We've covered it.</p> <p>19     <b>Q. All right.</b></p> <p>20     A. I'm telling you what he did.</p> <p>21 Like I said, you talk to my friends, you</p> <p>22 pretty much know.</p> <p>23     <b>Q. Is there anything else that</b></p>

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<p>1   <b>Greg Prater did or said that you felt was 2   harassing in any way?</b></p> <p>3   A. Yeah. Like I said -- Like I 4   started out this morning, my military 5   service became an issue, and it never went 6   away. It stayed an issue, it caused 7   problems. And I believe, to my utmost 8   ability, that that was the reason I'm fired 9   -- I was fired. I mean, everything points 10   -- everything falls back on my military 11   commitment, everything, from get-go to 12   finish.</p> <p>13         I don't care what her letter 14   (indicating) says, even -- Like I said, 15   Prater's recommendation, even if he wasn't 16   sleeping, I recommend he be terminated. 17   Everything falls back to me not providing 18   something that I cannot provide for a drill, 19   for a weekend.</p> <p>20         MR. KILBORN: For the Record, 21   you pointed to a Defendant's Exhibit 12.</p> <p>22         THE WITNESS: Yes, sir.</p> <p>23         MR. KILBORN: All right. I</p>	<p>1   your cell phone was the question asked.</p> <p>2         <b>Q. Okay.</b></p> <p>3   A. So they ignored -- They threw 4   their own policy out the window, as they did 5   with everything else, as they did with their 6   policy on the military leave. Prater 7   telling me he's going to make me use my 8   vacation time in lieu of my military leave.</p> <p>9         <b>Q. They never did that, though?</b></p> <p>10      A. No, sir, he didn't.</p> <p>11         <b>Q. Okay.</b></p> <p>12      A. But I didn't know that.</p> <p>13         <b>Q. You called -- Why is it you 14   made the decision to call Mr. Moon after you 15   were terminated? Why Mr. Moon?</b></p> <p>16      A. He was the only person I knew 17   to call.</p> <p>18         <b>Q. Why didn't you call Mr. Moon 19   and complain about Greg Prater when he was 20   allegedly harassing you?</b></p> <p>21      A. The Koreans -- Well, everybody 22   complained to Mr. Moon about Prater. 23   Mr. Moon knew how Prater was, that's what he</p>
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<p>1   just wanted the Record to be clear what you 2   pointed to.</p> <p>3         <b>Q. Mr. Dees, was using the cell 4   phone for text messaging or other personal 5   purposes, a violation of Hyundai policy or 6   other policy?</b></p> <p>7      A. Well, you've got their policy 8   there somewhere, I know.</p> <p>9         <b>Q. I'm asking you?</b></p> <p>10     A. Their policy states your cell 11   phone is to be kept in your locker and only 12   used on breaks and lunch breaks. And as I 13   stated earlier, Prater, Mr. Moon, Applegate 14   even called some of our team members on our 15   personal cell phones during breakdowns 16   wanting to know what was going on.</p> <p>17         <b>Q. Okay.</b></p> <p>18     A. Their policy said one thing, 19   they enforced something else.</p> <p>20         <b>Q. Okay.</b></p> <p>21     A. And that come from management, 22   all the way down. And if you didn't have 23   your cell phone, why didn't you call me on</p>	<p>1   said.</p> <p>2         <b>Q. Did you?</b></p> <p>3      A. Yeah, I complained to 4   Mr. Moon.</p> <p>5         <b>Q. What did you tell Mr. Moon 6   about Prater before you were terminated?</b></p> <p>7      A. The exact comments, I have no 8   idea.</p> <p>9         <b>Q. Did you tell him he's 10   harassing me because I go on Guard duty?</b></p> <p>11     A. Yes, I did. I told Mr. Moon 12   that I was being picked on by Greg Prater, 13   by Applegate, and HR. And he said, look, I 14   know Prater is a bad man. Give me time.</p> <p>15         <b>Q. This was before you were 16   terminated?</b></p> <p>17     A. Yes. I wasn't the only one 18   that complained to him.</p> <p>19         <b>Q. Okay.</b></p> <p>20     A. But as far as, like I said, 21   about my Guard duty, yes, I did. I didn't 22   know nobody else to call. Mr. Moon was the 23   only one I knew. He was the other</p>

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<p>1 counterpart, the Korean counterpart, my      2 Korean boss in that shop, and I called him.      3       <b>Q. What I'm trying to make sure I</b>      4 <b>understand, is in the sense that you called</b>      5 <b>him after you were terminated, did you call</b>      6 <b>him or have your wife call him during the</b>      7 <b>period in which you were allegedly harassed</b>      8 <b>to try to get him to stop Greg Prater?</b></p> <p>9       A. No. I talked to him a few      10 times at work. But I didn't know I was      11 being terminated. How am I supposed to call      12 somebody if I don't know I'm being      13 terminated?</p> <p>14       <b>Q. Did you know you were being</b>      15 <b>harassed?</b></p> <p>16       A. Yes. Why do you think I went      17 to HR.</p> <p>18       <b>Q. So you knew that but you</b>      19 <b>didn't go to Mr. Moon with that?</b></p> <p>20       A. I told you earlier that I      21 complained to Mr. Moon about one time and he      22 said give me time. And Prater was -- He      23 knew Applegate. But apparently it didn't do</p>	<p>1 your termination?      2       A. I don't know. Like I said,      3 everything went back to that military      4 record.</p> <p>5       <b>Q. But again what did you know.</b>      6 <b>Do you have any reason to think that Mr. Ahn</b>      7 <b>knew about your situation?</b></p> <p>8       A. Like I said, it all went back      9 to my military record. Apparently it had to      10 have come up somewhere along the line.</p> <p>11       <b>Q. Do you have any personal</b>      12 <b>knowledge as to what Mr. Ahn knew about it?</b>      13 <b>That's an easy question to answer.</b></p> <p>14       A. I wasn't in the meeting. I      15 don't know what they discussed. All I      16 know --</p> <p>17       <b>Q. So the answer is no?</b></p> <p>18       MR. KILBORN: Hold on. Don't      19 interrupt him.</p> <p>20       A. All I know is that it went      21 back -- it started with my military career,      22 my military commitment, and it stayed there.</p> <p>23       <b>Q. Would it be fair --</b></p>
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<p>1 no good, they told him to leave it alone.      2       <b>Q. Is that the only discussion</b>      3 <b>you had with Mr. Moon about the harassment?</b></p> <p>4       A. Probably. Because the Koreans      5 don't like to discuss problems like that.      6 They think if they wait, they will just go      7 away; that's their custom.</p> <p>8       <b>Q. Do you have any reason to</b>      9 <b>think that Mr. Moon talked to President Ahn</b>      10 <b>about the situation?</b></p> <p>11       A. Say again.</p> <p>12       <b>Q. Do you have any reason to</b>      13 <b>think that Mr. Moon spoke to President Ahn</b>      14 <b>about your situation?</b></p> <p>15       A. Before I was fired?</p> <p>16       <b>Q. Before or after.</b></p> <p>17       A. Well, he talked to either J.H.      18 Kim or Mr. Ahn, one, after I was fired. I      19 have no idea who he talked to before I was      20 fired.</p> <p>21       <b>Q. Do you have any reason to</b>      22 <b>think that President Ahn had anything to do</b>      23 <b>with your termination or even knew about</b></p>	<p>1       A. I wasn't in the meeting, I      2 don't know what they discussed. I just know      3 everything come from my military obligation.</p> <p>4       <b>Q. Would it be fair to state that</b>      5 <b>you, today, don't have knowledge of whether</b>      6 <b>President Ahn were involved or not involved?</b>      7 <b>Would that be a fair statement?</b></p> <p>8       A. I'm going with my last      9 comment.</p> <p>10       <b>Q. Well, is that not a fair</b>      11 <b>statement or is it a fair statement?</b></p> <p>12       A. Like I said, I wasn't in the      13 meeting. I have no idea what they said.      14 All I know is everything stemmed from my      15 military career and commitment.</p> <p>16       <b>Q. So you don't know what</b>      17 <b>involvement, if any, Mr. Ahn had; is that</b>      18 <b>true?</b></p> <p>19       A. Like I said --</p> <p>20       MR. KILBORN: Object. You      21 asked him that four or five times.</p> <p>22       MR. JOHNSON: He doesn't want      23 to answer the question though.</p>

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<p style="text-align: right;">Page 337</p> <p>1           MR. KILBORN: Hold on. I'm 2 going to get my objection in or we're going 3 to be here until the cows come home. You 4 asked him that four or five times, he's told 5 you what he knows about Mr. Ahn, he's told 6 you that Mr. Moon said that he was going to 7 Mr. Ahn or Mr. Kim. Now get on with your 8 next question.</p> <p>9           MR. JOHNSON: What he hasn't 10 said is what he knows about whether or not 11 Mr. Ahn was involved.</p> <p>12          MR. KILBORN: I think he's 13 told you what he knows. If you know 14 anything else, tell him about Mr. Ahn.</p> <p>15          <b>Q. Do you know anything else about Mr. Ahn's involvement?</b></p> <p>16          A. I've answered the question the 17 only way I know how to answer it, and that's 18 the answer I'm sticking with.</p> <p>19          <b>Q. Okay. So there's nothing else you can tell me about Mr. Ahn's involvement with your situation?</b></p> <p>20          A. Like I said, I've answered to</p>	<p style="text-align: right;">Page 339</p> <p>1           there.</p> <p>2          <b>Q. Okay. You mentioned your military pay stubs earlier. Did you get pay stubs from Hyundai?</b></p> <p>3          A. Yes, sir.</p> <p>4          <b>Q. And you do you remember what company name was on the pay stub?</b></p> <p>5          A. No, I do not.</p> <p>6          <b>Q. Okay. Do you remember if it was Hyundai Motor Manufacturing Alabama?</b></p> <p>7          A. I don't know. I don't 8 remember. I don't remember what was on the 9 pay stub.</p> <p>10         I know -- I tell you what I do 11 know, I know that HMC owns everything, 12 because our Korean bosses worked for HMC, 13 and that's what their badges said, and 14 that's what they said, so HMC owned all of 15 us, and they told us that.</p> <p>16         <b>Q. Okay. Did you ever deal with anybody from HMA?</b></p> <p>17         A. I don't remember. I may have, 18 I may not have.</p>
<p style="text-align: right;">Page 338</p> <p>1           the best of my ability, and that's the 2 answer I'm sticking with.</p> <p>3          <b>Q. I'm sure that will be satisfactory.</b></p> <p>4          <b>Who is the other gentleman, Mr. Kim?</b></p> <p>5          A. J.H. Kim.</p> <p>6          <b>Q. What do you know about Mr. Kim's involvement? Tell me what you know.</b></p> <p>7          A. Same thing.</p> <p>8          <b>Q. So you don't have anything to tell me?</b></p> <p>9          A. No, sir.</p> <p>10         <b>Q. Do you have anything to tell me about Jason Lee's involvement?</b></p> <p>11         A. I have no knowledge of who 12 Jason Lee is.</p> <p>13         <b>Q. Okay.</b></p> <p>14         A. All I know is that he called 15 my wife and interviewed her for a job.</p> <p>16         <b>Q. Okay. When did that happen?</b></p> <p>17         A. I don't know. I was working</p>	<p style="text-align: right;">Page 340</p> <p>1          <b>Q. But you don't recall if you did or didn't?</b></p> <p>2          A. No, sir. I mean, I know it 3 went HMC, HMA, and like I say, HMMA, and we 4 all fell under HMC; HMC owns all of it. 5 That's what we was told by the Koreans.</p> <p>6          <b>Q. Do you have any information to suggest that anybody from HMA was involved in your termination?</b></p> <p>7          A. They own our company.</p> <p>8          <b>Q. Do you have any other knowledge?</b></p> <p>9          A. They own our company. HMC 10 owns all of us, we're all one big -- they 11 were all one big company.</p> <p>12         <b>Q. Do you have any information to suggest that HMA was involved, other than in the ownership, as you state?</b></p> <p>13         A. Like I said, it was all one 14 company.</p> <p>15         <b>Q. Is there anything else you can tell me about that?</b></p> <p>16         A. It was all one company.</p>

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<p>1       Q. Okay. I'm going to take that 2 as a no.</p> <p>3       A. It was all one company. It's 4 not a no, it was all one company. You talk 5 to the Koreans out there, and they will tell 6 you this is all one company.</p> <p>7       Q. Who? Who says that? What 8 Koreans?</p> <p>9       A. Any Korean. You go out there 10 and ask any one of them, and they will tell 11 you that HMC is sole owner and HMC controls 12 everything.</p> <p>13      Q. They say HMC controls 14 everything?</p> <p>15      A. HMC, HMC, HMA, it goes down 16 the chain. They run their companies like a 17 military organization in a chain of command. 18 And you've got HMC, HMA; HMC would be the 19 commandant, HMA would be your generals, and 20 HMMA would be your peons and your officers.</p> <p>21      Q. Did any of them -- Well, do 22 you know any HMA employees?</p> <p>23      A. I may have met some of them.</p>	<p>1       bill. And we've had some discussions with 2 your attorneys after the Record.</p> <p>3            MR. JOHNSON: As I understand 4 it, Mr. Sport, correct me if I'm wrong. 5 Mr. Sport is going to provide to our court 6 reporter an additional copy of pages one 7 through seven of Exhibit 13 and we'll mark 8 that -- Can we have that marked as 14?</p> <p>9            COURT REPORTER: Sure.</p> <p>10          MR. JOHNSON: And just for the 11 Record, 14 will basically be this exactly 12 presumably less the fax transmittal 13 information.</p> <p>14          MR. SPORT: Hopefully more 15 legible.</p> <p>16          MR. JOHNSON: More legible</p> <p>17          MR. SPORT: That's the goal. (Whereupon, Defendant's 18 Exhibit No. 14 was marked 19 for identification.)</p> <p>20      Q. Okay. Now, to the extent that 21 I can, Mr. Dees, I want to look through 22 Exhibit 13, since I haven't had a chance to</p>
<p>1       We had people coming in from HMA all the 2 time, but I don't remember. I don't know. 3 We had people coming in from all. We had 4 people coming in from Kia that HMC owns. We 5 had people from everywhere. As far as 6 personally knowing them, I don't remember. 7 I may have met them, I may not have met 8 them.</p> <p>9       Q. Okay.</p> <p>10       MR. JOHNSON: Can we mark this 11 one?</p> <p>12       MR. SPORT: Sure. (Whereupon, Defendant's 13 Exhibit No. 13 was marked 14 for identification.)</p> <p>15      Q. Mr. Dees, I'm going to mark as 16 Exhibit 13, which is a seven-page document 17 which appears to be your cell phone record. 18 Can you just take a look at it and confirm 19 that that's what it is?</p> <p>20       (Recess taken.)</p> <p>21      Q. Okay. Mr. Dees, we've got 22 marked as Exhibit 13 the seven-page phone</p>	<p>1       look at it yet, and then possibly ask some 2 questions.</p> <p>3            I assume Nikki is one of your 4 daughters?</p> <p>5        A. Yeah.</p> <p>6      Q. And are there only two phones 7 on this plan?</p> <p>8        A. Is that the only two plans on 9 that for phone?</p> <p>10       MR. KILBORN: You have to 11 answer the question. This is your 12 deposition.</p> <p>13       A. I can't -- I don't pay the 14 bills, I just work.</p> <p>15      Q. Okay. And, Mr. Dees, this 16 question is as much for your attorneys as it 17 is for you. I'm looking at page five of 18 this bill, and it looks like some of the 19 incoming calls don't have a number 20 associated with it.</p> <p>21       MR. SPORT: They have not been 22 redacted, if that's your question.</p> <p>23       A. I didn't say I had a good</p>
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<p style="text-align: right;">Page 345</p> <p>1 provider, I just said I had a provider.      2 MR. JOHNSON: And who -- You      3 know, I know that it's been redacted from      4 this, but I don't see any issues asking who      5 his provider is, is that something y'all are      6 opposed to him answering, subject to the      7 protective order?</p> <p>8 MR. KILBORN: I'll let him      9 answer who his provider is. But outside of      10 what you've got there, you hadn't asked for      11 it and we're going to object to any further      12 request. But as I further stated, I'll      13 discuss with you sharing documents as we      14 talked about earlier.</p> <p>15 MR. JOHNSON: Okay. I'm not      16 sure I understand. But I understand you'll      17 let him tell me who his cell phone provider      18 is.</p> <p>19 MR. KILBORN: Well, no, let me      20 make that clear. We've asked a simple      21 request to look at the plant and photograph      22 it, that's what I'm talking about. In other      23 words, what I'm talking about is, I like</p>	<p style="text-align: right;">Page 347</p> <p>1 MR. KILBORN: I just told you,      2 I'd let him testify who his provider was.      3 But I'm just asking for accommodation, and I      4 want it on the Record, you said you didn't      5 know what I was talking about and I wanted      6 to make clear what I was talking about.</p> <p>7 Q. Mr. Dees, who is your cell      8 phone provider?</p> <p>9 A. Unicel.</p> <p>10 Q. And was Unicel your provider      11 back in 2007?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And how do you spell Unicel?</p> <p>14 A. U-N-I-C-E-L.</p> <p>15 Q. Just one L?</p> <p>16 A. Yes.</p> <p>17 Q. And, Mr. Dees, are you      18 familiar with anywhere in this invoice where      19 it talks about you having text messaging      20 capacity or how much you were charged for      21 text messages?</p> <p>22 A. Like I said, I just work. I      23 don't pay the bills.</p>
<p style="text-align: right;">Page 346</p> <p>1 free discovery, and I'll do that with you,      2 even though you haven't asked about it.</p> <p>3 MR. JOHNSON: I think we did      4 ask for --</p> <p>5 MR. KILBORN: But you guys      6 pulling these technicalities, so don't be      7 asking us for accommodations unless you're      8 willing to also give us accommodations.</p> <p>9 MR. JOHNSON: Well, let me say      10 this, Mr. Kilborn, I believe and if      11 necessary I can go back and dig through the      12 file and find it, I think we asked for all      13 of his cellular telephone records. And we      14 were told we couldn't have them, I didn't      15 complain about that. I thought Mr. Sport      16 and I had reached some agreement on that,      17 which was fine with me. But my      18 understanding was that I would at least know      19 who the provider was. And I don't see why      20 that's a problem.</p> <p>21 If I need to go back and      22 search for what we did in fact, ask for      23 months and months ago, I can do it.</p>	<p style="text-align: right;">Page 348</p> <p>1 Q. Okay.</p> <p>2 A. I don't --</p> <p>3 Q. So, you never look at the cell      4 phone bills?</p> <p>5 A. No.</p> <p>6 Q. Okay. Have you ever looked at      7 this one before today?</p> <p>8 A. I may have. I don't know.</p> <p>9 Q. You don't recall?</p> <p>10 A. No.</p> <p>11 Q. Mr. Dees, did you have a      12 chance to look at the report that Mr. Hall,      13 who is here with us today, prepared?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. And when did you review      16 it?</p> <p>17 A. I reviewed it yesterday with      18 Mr. Hall, like I said this morning.</p> <p>19 Q. Okay. And in reviewing it      20 with Mr. Hall, did y'all do a page-by-page      21 analysis of it, or what did you do?</p> <p>22 A. Somewhat. Not really. I'm      23 not an accountant or a lawyer, I don't know.</p>

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<p>1       Q. Okay. And was there anything 2 in Mr. Hall's report that you didn't agree 3 with?</p> <p>4       MR. KILBORN: Asked and 5 answered.</p> <p>6       MR. JOHNSON: Did I cover 7 that?</p> <p>8       Q. I know you indicated that you 9 filed a complaint with the ESGR. Did you 10 file a complaint with any other governmental 11 agencies?</p> <p>12      A. No, sir.</p> <p>13      Q. Did you ever go to the EEOC to 14 try to file a claim there?</p> <p>15      A. No.</p> <p>16      Q. Did you talk to any other 17 governmental entities about possibly filing 18 a claim?</p> <p>19      A. Not after I talked to ESGR, I 20 felt it was a waste of time.</p> <p>21      Q. Did you ever call the 22 Department of Labor?</p> <p>23      A. No. I told you, I had to go</p>	<p>1 can't ask who he talked to on a break. 2            MR. JOHNSON: Why not? He's 3 not supposed to talk to people on a break 4 about the substance of his testimony. 5            MR. KILBORN: He can talk to 6 his lawyers all he wants. 7            MR. JOHNSON: About the 8 substance of his testimony? 9            MR. KILBORN: He can talk to 10 his lawyer about anything he wants to. 11          MR. JOHNSON: In Alabama state 12 court maybe. Do you think that will fly in 13 Federal Court? 14          MR. KILBORN: I certainly do. 15          A. Look, I'm the type person, 16 when I read something over and over again, 17 the more I think about it, the more it jars 18 my memory. 19          Q. Are you telling me you didn't 20 talk to anybody else about the substance of 21 your testimony on that point? 22          A. You asked a question earlier, 23 I gave you an answer.</p>
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<p>1 back to work. I didn't have time for --</p> <p>2       Q. Okay.</p> <p>3       MR. JOHNSON: We'll take a 4 short break, talk with Mr. Smith, and we may 5 be done.</p> <p>6       A. All right. A while ago, when 7 you asked me did I call that Monday morning, 8 I'd forgotten but yes, I called. I kept 9 getting an answering machine, I got 10 frustrated, call my wife, asked her to call. 11 She wouldn't call because she didn't know 12 what to say. And I don't know whether I 13 ever left a message that I was trying to 14 call and reschedule.</p> <p>15      Q. All right. What Monday 16 morning are you talking about?</p> <p>17      A. That Monday morning, that peer 18 review process.</p> <p>19      Q. All right. Let me ask you 20 this. Did you talk to somebody on a break 21 about your prior answer?</p> <p>22      A. No, I --</p> <p>23      MR. KILBORN: Hold on. You</p>	<p>1       Q. I know. Now you've got a 2 different answer. 3       A. Yes. And I told you that I 4 did call them that morning. And I kept 5 getting the answering machine, I told you 6 what happened, I got frustrated. Called my 7 wife, I asked her to try and call. And she 8 wouldn't call because she didn't know what 9 to say. So I tried to call back. I don't 10 remember whether I left a message or not, 11 but I know I was trying to call and 12 reschedule.</p> <p>13      Q. Let me ask you this, did you 14 talk to your wife about that on the break?</p> <p>15      A. You asked -- I told you what 16 I'd done. I mean, you asked a question 17 earlier, I answered it, and I had answered 18 the question wrong.</p> <p>19      Q. Okay.</p> <p>20      A. What the question was, did I 21 attempt to call anyone that day to 22 reschedule, did I attempt to go, did I 23 attempt to talk to anyone, did I attempt to</p>

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<p>1 write anyone, and I had said no. And I      2 forgot, I did try to call that morning. And      3 I had -- I kept getting an answering      4 machine.</p> <p>5 Q. All right. And you agree      6 that's not what you testified to earlier      7 today?</p> <p>8 A. That's not what I testified to      9 earlier today, no.</p> <p>10 Q. All right. Did any particular      11 thing spur you to change your testimony in      12 that regard?</p> <p>13 A. Well --</p> <p>14 Q. Did you talk to your wife      15 about what you said earlier?</p> <p>16 A. I told you, I forgot and I      17 answered the question wrong.</p> <p>18 Q. Okay. Did you talk to your      19 wife about your testimony?</p> <p>20 A. I told you, that was my      21 answer. I gave you my answer.</p> <p>22 Q. I'm asking you a specific      23 question.</p>	<p>1 what spurred you --</p> <p>2 A. But I gave you the answer,      3 like I said.</p> <p>4 Q. Did you talk to your wife      5 about your testimony here today?</p> <p>6 A. No, sir. I'm telling you that      7 that was my answer, period, plain and      8 simple.</p> <p>9 Q. And you did not talk to your      10 wife about it? That's your sworn testimony?</p> <p>11 A. She's got wrote down what I      12 said.</p> <p>13 Q. I'm asking a simple question,      14 yes or no.</p> <p>15 A. I gave you an answer to your      16 question.</p> <p>17 Q. Did you talk to your wife?</p> <p>18 A. I gave you an answer to your      19 question, sir.</p> <p>20 Q. That didn't sound like an      21 answer to me and I --</p> <p>22 A. You asked me earlier today had      23 I tried to get in contact with anybody, and</p>
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<p>1 A. And I answered your question.      2 I said I forgot what I had done.</p> <p>3 Q. And are you also --</p> <p>4 A. And I answered the question.      5 I stated that I had called. I have      6 forgotten that I had called.</p> <p>7 Q. I heard you.</p> <p>8 A. I also stated that I got an      9 answering machine several times. I also      10 stated that I got frustrated; that I called      11 my wife; that I had asked my wife to call;      12 my wife would not call. Therefore, I don't      13 know if I left a message or not. I was      14 upset, and I was working to make money.      15 That's my answer.</p> <p>16 Q. And I understand that's your      17 answer now --</p> <p>18 A. Yes, sir.</p> <p>19 Q. -- but that wasn't your answer      20 earlier --</p> <p>21 A. No, sir, that was not my      22 answer earlier.</p> <p>23 Q. -- I'm trying to figure out</p>	<p>1 I answered no.</p> <p>2 Q. You did answer no.</p> <p>3 A. You acknowledge I answered no.      4 That was my answer.</p> <p>5 Q. Your testimony earlier today      6 is different than your testimony right now;      7 correct?</p> <p>8 A. You don't make mistakes?</p> <p>9 Q. I make mistakes.</p> <p>10 A. So do I, I'm human. I don't      11 know nobody that don't make mistakes.</p> <p>12 Q. Let me ask some questions      13 here. And I'd like some answers from you.      14 I mean, we've got several hours we can be      15 here or we can go home.</p> <p>16 A. I can stay awake.</p> <p>17 Q. That's what you say.</p> <p>18 A. That's what I know.</p> <p>19 Q. Now let me ask the question:      20 Your testimony was different this morning      21 than it is now. And if it just suddenly      22 struck you for no apparent reason, that's      23 fine.</p>

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<p>Page 358</p> <p>1 A. You've never had that happen?</p> <p>2 Q. I have had it happen. Is that what happened to you?</p> <p>3 A. What's so strange about it?</p> <p>4 Q. Is that what happened to you?</p> <p>5 A. What's so strange about it?</p> <p>6 Q. Is that what happened to you?</p> <p>7 A. I told you.</p> <p>8 Q. No.</p> <p>9 A. I answered the question wrong earlier today, and that's my answer.</p> <p>10 Q. I know you said you changed your testimony, that's obvious from what you're saying.</p> <p>11 A. Yes, I did.</p> <p>12 Q. That's obvious from what you're saying.</p> <p>13 A. Yes.</p> <p>14 Q. What I'm asking you is, what made it change? Were you just suddenly struck by a different thought or did you talk to somebody that made you change your testimony?</p>	<p>Page 359</p> <p>1 MR. JOHNSON: Back on the Record.</p> <p>2 Q. Mr. Dees, before we took a break, I had started asking you some questions --</p> <p>3 A. Yes, sir.</p> <p>4 Q. -- because you testified to one thing earlier today, and moments ago, just before the break, you testified something different.</p> <p>5 A. Yes, I did.</p> <p>6 Q. And, again, that's okay with me. I just want to know why. And if your testimony is that you just remembered, then I'd like to know that. But if the truth is that you talked to your wife, and she jogged your memory, and you now know more, I want to know that.</p> <p>7 A. She told me that I -- She told me that I had called them. I forgot about it. Because she told me I called her saying I was frustrated. When she said that, I remembered, yeah, I called them several</p>
<p>Page 360</p> <p>1 A. I answered the question.</p> <p>2 Q. You did not answer that question.</p> <p>3 A. That's my testimony I'm sticking with, period.</p> <p>4 Q. I'm going to get an answer.</p> <p>5 A. We've got a couple more hours.</p> <p>6 Q. And we can go now or we can go then. But I want an answer to the question.</p> <p>7 A. Okay. Ask your question.</p> <p>8 Q. Did you talk to your wife or anybody else and that made you change your testimony?</p> <p>9 A. I told you -- Well, she's got what I told you, that's what I'm sticking with.</p> <p>10 Q. Did you talk to your wife about substance of your testimony during this deposition?</p> <p>11 A. She's through typing now.</p> <p>12 MR. KILBORN: Let's take a break.</p> <p>13 (Recess taken.)</p>	<p>Page 360</p> <p>1 times.</p> <p>2 Q. Okay. So now you remember calling them?</p> <p>3 A. Yes, sir, I did. And I got mad because I kept getting that stinking answering machine.</p> <p>4 Q. Okay. See, that wasn't too hard, was it?</p> <p>5 A. Well, this is all new to me. I'm a soldier. I go fight where I'm told to fight and jump on who I'm told to.</p> <p>6 Q. This is where we fight.</p> <p>7 A. That's what y'all get paid for. This ain't my environment.</p> <p>8 Q. All right. There wasn't any magic to that, I just wanted to know the answer to the question. Okay?</p> <p>9 A. Well . . .</p> <p>10 Q. Have you ever appeared in court before?</p> <p>11 A. Just when I filed bankruptcy.</p> <p>12 Q. Okay. Did you give a deposition?</p>

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<p style="text-align: right;">Page 361</p> <p>1 A. No, sir.      2 Q. Have you ever given a      3 deposition like this today?      4 A. Nope.      5 MR. SPORT: You have now.      6 THE WITNESS: Yeah. I don't      7 like these at all.      8 Q. When you filed bankruptcy, did      9 you actually have to go to bankruptcy court?      10 A. Yes, I did. It was quite      11 embarrassing.      12 Q. Now, Mr. Dees, before we get      13 -- I basically get one shot at asking you      14 questions.      15 A. All right.      16 Q. And I don't want to leave here      17 thinking I didn't ask you something or I      18 didn't get a fair answer from you.      19 Are there any other questions      20 that I've asked you today that you've      21 already answered that you feel like you need      22 to change or add to or take from?      23 A. I'm still uncertain as to what</p>	<p style="text-align: right;">Page 363</p> <p>1 had with Mr. Prater or how do you know that?      2 A. That stemmed -- That caused      3 all of my problems from when we started to      4 finish.      5 MR. JOHNSON: As I said      6 earlier, I'm going to take a quick break and      7 talk with Mr. Smith. And assuming he hasn't      8 thought of anything else, we'll probably be      9 done. So give me just a few minutes, and      10 we'll be right back.      11 (Recess taken.)      12 Q. Mr. Dees, I know that your      13 attorneys had early on in the case provided      14 something called Plaintiff's Initial      15 Disclosures. It included a list of      16 witnesses and people that know something      17 about the case.      18 And I want to ask -- I want to      19 read off some of the names and ask you to      20 let me know if there is anybody else that      21 you're familiar with that might have      22 information that's not included here.      23 MR. SPORT: Matt, before he</p>
<p style="text-align: right;">Page 362</p> <p>1 you was wanting when you were asking about      2 my knowledge of a meeting and whatever. You      3 kept asking the question, and I still don't      4 -- I'm still unsure of what you was hinting      5 at.      6 Q. Okay. What --      7 A. Like I said, all I know is      8 everything stemmed from my military      9 service --      10 Q. And that's all you know?      11 A. -- and my military commitment.      12 I don't care what was said in the meeting, I      13 wasn't in the meeting. All I know is      14 everything when my military commitment      15 became a problem, it escalated to a point      16 and it got me terminated because of my      17 military commitment.      18 I didn't even know they had      19 had a meeting. But I know -- do know that      20 my military career was the reason for my      21 being terminated.      22 Q. All right. And you know that      23 just because that's the only problems you</p>	<p style="text-align: right;">Page 364</p> <p>1 starts on that, do you also have the      2 supplement?      3 MR. JOHNSON: Yeah. I think      4 so.      5 MR. SPORT: We added some      6 names.      7 MR. JOHNSON: Okay. Well, let      8 me make sure. Did you add names on the      9 supplement? I know you provided those tax      10 documents.      11 MR. SPORT: Yeah. I think we      12 added a couple of names, four, five, six,      13 seven, something like that.      14 MR. JOHNSON: You don't happen      15 to have them, do you?      16 MR. SPORT: I don't. But go      17 ahead and ask him, and the documents will      18 say what they say.      19 MR. JOHNSON: Yeah. Sure.      20 Q. All right. Well, anyways,      21 Mr. Dees, I realize that there might be      22 additional names on a supplemental      23 disclosure, and if they're there, I'll look</p>

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<p>1 at it and see what they are.      2 But for purposes of the      3 deposition, let me just refer to the Initial      4 Disclosures that were provided. And they've      5 indicated a number of names that have come      6 up plenty of times: Your name, your wife's      7 name, Greg Prater's name, Kevin Hughes, John      8 Applegate. They list here Keisha Morris, is      9 that the Keisha you're referring to?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. Mr. Moon is included,      12 Wendy Warner is included. It's identified      13 Drake Barefoot, he was a coworker of yours;      14 is that right?</p> <p>15 A. That's right.</p> <p>16 Q. Okay. And we've talked about      17 him some. Mark Bornberg, was he also your      18 coworker?</p> <p>19 A. Yes.</p> <p>20 Q. And we've talked about him      21 some?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And Chris -- W-E-I-H-E?</p>	<p>1 A. Yeah.      2 Q. Okay.      3 A. No. He came to work -- I      4 don't know when he started with the company.      5 Plus he started out on that weekend shift      6 and then he moved to our shift.</p> <p>7 Q. Okay. What about Chris Weihe,      8 was he --</p> <p>9 A. Chris was one of the very      10 first ones hired on.</p> <p>11 Q. Was he at that meeting?</p> <p>12 A. Yes.</p> <p>13 Q. And was Mark Bornberg at that      14 meeting?</p> <p>15 A. I don't know if Bornberg was      16 or not.</p> <p>17 Q. Okay. And was Drake Barefoot      18 at the meeting?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And also included here      21 is a guy we haven't talked about, John      22 Wingo?</p> <p>23 A. Yes. Wingo was there too.</p>
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<p>1 A. Weihe.      2 Q. And we talked about him some.      3 I think we also talked about Shane Archer      4 who worked with you as well?</p> <p>5 A. Uh-huh.</p> <p>6 Q. Is that a yes?</p> <p>7 A. Yes.</p> <p>8 Q. And I think you mentioned Mark      9 Hanks' name, but I didn't get a good feel      10 for what you understood Mark Hanks to know.      11 Tell me what -- I know we talked about the      12 big meeting where you and a number of your      13 coworkers were there, you talked with      14 Prater, and that was sort of a big deal      15 meeting that we talked about. Was Mark      16 Hanks there?</p> <p>17 A. Yes.</p> <p>18 Q. And was Shane Archer there?</p> <p>19 A. Yes. Well, wait a minute.      20 The first meeting? I don't know if Shane      21 was there or not.</p> <p>22 Q. Did he start later than some      23 of the other guys?</p>	<p>1 Q. Who is John Wingo?      2 A. He worked at International      3 Paper with me, came down to Hyundai with me.      4 And I'd known him several years, and he left      5 and went to Honda.</p> <p>6 Q. Okay. When did he do that?</p> <p>7 A. I don't know.</p> <p>8 Q. I mean, did he leave before      9 your termination, or since then?</p> <p>10 A. Before I was fired, yes.</p> <p>11 Q. Okay. And what did John Wingo      12 know?</p> <p>13 A. He was there for most of the      14 harassment, most of the time I was being      15 pushed and harassed.</p> <p>16 Q. All right. Did you ever have      17 any conversations with John Wingo about it?</p> <p>18 A. Yes, sir. Me and John were      19 tight. He was a former Marine. Me and him      20 had a good military bond.</p> <p>21 Q. You use the word pushed and      22 harassed, were you actually physically      23 pushed or were you just talking mentally</p>

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<p>1   <b>pushed?</b></p> <p>2   A. I was actually physically 3   grabbed, yes.</p> <p>4   <b>Q. When?</b></p> <p>5   A. By Prater.</p> <p>6   <b>Q. When?</b></p> <p>7   A. Before a shift one time. He 8   come in and somebody stated, I got a 9   headache, and he said: Yeah, so do I, and 10   pointed at me. And, I don't know, several 11   minutes later came up and tried to bear hug 12   me from behind. And I don't even remember 13   what the comment was that he made.</p> <p>14   <b>Q. You don't remember?</b></p> <p>15   A. No, sir.</p> <p>16   <b>Q. I mean, was he just goofing 17   around, or what was the point of the bear 18   hug?</b></p> <p>19   A. He -- It was -- Dadgumit. No, 20 I mean, it wasn't goofing. I didn't -- 21 There was nothing goofing around. I didn't 22 goof around with him, with management. I 23 don't -- I don't remember.</p>	<p>1   under the bridge because he was management.</p> <p>2   <b>Q. Okay.</b></p> <p>3   A. He cussed two of our 4   specialists out, they went to team 5   relations, went to HR, same thing, washed 6   under the bridge because he was management.</p> <p>7   <b>Q. All right. With respect to 8   these guys that are your coworkers, Drake 9   Barefoot, Mark Bornberg, Chris Weihe, Shane 10   Archer, Mark Hanks, or John Wingo, can you 11   think of any other discussions you had with 12   them about Prater or your problems because 13   of your military service that we haven't 14   talked about already?</b></p> <p>15   A. There probably is, but right 16 offhand, no, I don't remember. Plus there 17 was Sergeant First Class Richberg and 18 Sergeant Martin in my unit.</p> <p>19   <b>Q. Wait. Say that again.</b></p> <p>20   A. You have Sergeant First Class 21 Richberg and Sergeant Martin you need to add 22 to your list.</p> <p>23   <b>Q. Who is Richberg? I think you</b></p>
<p style="text-align: center;">Page 370</p> <p>1   <b>Q. I mean, did you think he was 2   trying to physically attack you?</b></p> <p>3   A. No. Because then that would 4   -- I mean, I don't know what he was trying 5   to do. He come up and grabbed me from 6   behind. And I don't remember what the 7   comment was that was made, but it was there 8   in the shift office. Bill Seivers' shift 9   saw it, my shift saw it. I busted loose, 10   grabbed my tools, and walked out.</p> <p>11   <b>Q. Okay.</b></p> <p>12   A. I don't remember what it was 13 for. I don't remember what he said. I was 14 -- I don't know.</p> <p>15   <b>Q. Did y'all have any other 16 discussion about it?</b></p> <p>17   A. No. I mean, some of the other 18 fellows voiced their opinions.</p> <p>19   <b>Q. What did they say?</b></p> <p>20   A. Just like every other thing -- 21 I don't know, I wasn't in there. I left. 22 They voiced their opinion, like I said, it 23 was like everything else, it was washed</p>	<p style="text-align: center;">Page 372</p> <p>1   <b>mentioned his name earlier.</b></p> <p>2   A. He was my superior. He 3   retired.</p> <p>4   <b>MR. SPORT:</b> I'll represent to 5   you, I think those are two of the names we 6   added in our supplement.</p> <p>7   <b>MR. JOHNSON:</b> I think you're 8   right. Now I remember it.</p> <p>9   <b>Q. Martin is somebody we talked 10   about earlier?</b></p> <p>11   A. Martin, he took Sergeant First 12 Class Richberg's place in our unit. I've 13 known him for about ten years.</p> <p>14   <b>Q. Barring anybody that may be in 15 a supplemental disclosure that your 16 attorneys have provided to us, and I'm sorry 17 I can't hand them to you to look at, can you 18 think of any other people that would have 19 knowledge about your case or the allegations 20 that you've made?</b></p> <p>21   A. You need to talk to some of 22 the production people there, if you haven't 23 already. I mean, they -- I don't know.</p>

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<p>1       Q. Is there anybody that knows 2 anything about it that we should talk to? 3       A. Right offhand -- 4            MR. SPORT: I don't think we 5 had listed one of the names he had mentioned 6 today. The guy's name ends in a Y, works in 7 production.</p> <p>8            MR. JOHNSON: Stapley. 9            MR. SPORT: Stapley. I don't 10 think we've listed him, but we probably need 11 to supplement him.</p> <p>12          Q. Mr. Dees, sort of my last 13 question here, I know -- your attorneys have 14 provided me a lot of documents, and I'm 15 assuming they all came from you. Are you 16 aware of any documents related to this case, 17 issues you had with Hyundai, issues you've 18 had with Greg Prater individually, or 19 anybody else that might relate to this case 20 that you haven't provided to your lawyers?</p> <p>21          Is there any other 22 correspondence, any other e-mails, notes, or 23 anything?</p>	<p>1       not. 2       Q. Were there video recording 3 devices when you come into the security 4 building when you were fired? 5           A. Yes, sir. They have a room in 6 there, when you walk in the door, there's a 7 door straight across from the entry door, 8 and that room is all their recording 9 devices, I believe. That's where I saw 10 them.</p> <p>11       Q. You saw them there? 12       A. Yes, sir. 13       Q. Okay. And what about the 14 plant, does it have any recording devices? 15       A. Yes, sir. 16       Q. Where are they? 17       A. Specifics, I don't know. I 18 know we had a coax running up in our 19 building in the production building, because 20 Prater would brag that he would go back 21 there and disconnect the coax to their 22 cameras in our section and then they would 23 call him and ask him what was wrong with it.</p>
<p>Page 374</p> <p>1       A. I don't -- Not offhand. But 2 like the e-mail from -- that I sent to 3 Kimball, I'd forgotten about it until today. 4 I mean, if I remember it, they'll know about 5 it. But as of right now, no.</p> <p>6       Q. Okay. So as of right now, you 7 don't know of anything else that hasn't been 8 provided to your lawyers?</p> <p>9       A. No.</p> <p>10       MR. JOHNSON: That's it. I 11 appreciate your time. I know it was a long 12 time.</p> <p>13       MR. KILBORN: I've got a few 14 questions.</p> <p>15           EXAMINATION 16 BY MR. KILBORN:</p> <p>17       Q. Mr. Dees, the security 18 building where you were taken, does that 19 building have recording devices?</p> <p>20       A. Yes, sir.</p> <p>21       Q. What type?</p> <p>22       A. I know it has video recording 23 devices, I don't know if it has audio or</p>	<p>Page 376</p> <p>1       And he'd have to go hook it back up. 2           But as far as where they were 3 actually located, I don't know, I just know 4 they had them. Because like I said, he took 5 several of us back there and showed us the 6 coax bragging how he would turn it -- 7 disconnect it, and then they would call and 8 make -- the cameras would go blank when you 9 disconnect your feed, the cameras go black, 10 then they would call him and make him 11 reconnect it. So they did have cameras in 12 our section.</p> <p>13       Q. And you mentioned another 14 recording, you said it was -- was it a Bill 15 Shivers?</p> <p>16       A. Seivers.</p> <p>17       Q. Seivers. Said he had 18 recordings by Applegate?</p> <p>19       A. Said Prater stated to him that 20 he had voice recordings of Applegate telling 21 him to terminate me, that he needed to get 22 rid of me.</p> <p>23       Q. Okay. Now, prior to the 26th</p>

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<p style="text-align: right;">Page 377</p> <p>1 of February when you were taken into the 2 firing room in the security house or 3 building, had you had any warning at all or 4 had you been told that you were going to be 5 terminated or that you were being considered 6 for termination?</p> <p>7 A. No, sir. I had no idea 8 whatsoever. It floored me when I walked in 9 the room and they told me I was being fired. 10 There was nothing leading up to it, no 11 inclination, nothing.</p> <p>12 Q. For instance, Defendant's 13 Exhibit 6 is the e-mail counsel asked you 14 about February 21, 2007, at 5:30 a.m. from 15 Prater to Applegate. It says: Based on 16 this conversation, I feel that even if he 17 was not sleeping, that he doesn't care 18 enough about his job to prevent anyone from 19 thinking he was sleeping. John, my 20 recommendation, as hard as it is for me to 21 say, termination. Greg.</p> <p>22 Had you been told anything 23 like that at that time?</p>	<p style="text-align: right;">Page 379</p> <p>1 Q. Do they know why Hyundai said 2 you were terminated? 3 A. Yes, sir. 4 Q. All right. Does that create 5 any embarrassment for you? 6 A. Yes, sir. Because I didn't 7 talk to no one for a long time about it, and 8 everyone just assumed that I had actually 9 fell asleep on the job and all my military 10 friends and all my close friends, they 11 couldn't believe it. They kept asking me 12 did -- what happened. And I just -- I 13 didn't talk to nobody about it for a long 14 time, because like I said, that's -- I've 15 never.</p> <p>16 Q. And up until Hyundai decided, 17 in their infinite wisdom, that you were a 18 man who slept on the job, you had a 19 blemish-free record both in civilian and 20 military life?</p> <p>21 A. Yes, sir. 22 Q. And now whenever you apply for 23 employment or apply for anything, bank</p>
<p style="text-align: right;">Page 378</p> <p>1 A. No, sir. And Prater when he 2 got anybody fired, he always bragged about 3 it later. He had been responsible for two 4 people being fired prior to me, and all we 5 heard was him bragging about how he had got 6 them fired.</p> <p>7 Q. Were you told when you were 8 terminated that you -- You were told you 9 were being terminated for sleeping?</p> <p>10 A. That's what that -- the lady 11 said.</p> <p>12 Q. All right. Were you told that 13 you were being terminated, because, quote, 14 you don't care about your job to prevent 15 anyone from thinking you were sleeping?</p> <p>16 A. No, sir.</p> <p>17 Q. And counsel also asked you 18 about embarrassment. And you do attend a 19 church?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And do the people in the 22 church know that you got terminated?</p> <p>23 A. Yes, sir.</p>	<p style="text-align: right;">Page 380</p> <p>1 credit, where there's a question about have 2 you ever been terminated or received any 3 type of job action, you've got to put that 4 down?</p> <p>5 A. Yes, sir. When I went to work 6 for International Paper in Thorsby, I made 7 -- I made leadman in three years, and that 8 was unheard of.</p> <p>9 Q. And was that -- Does the fact 10 that that blemish is now on your reputation, 11 does that cause you any distress?</p> <p>12 A. Yes, sir. It still causes 13 problems. Even between me and my wife. I 14 mean, that -- Like I said, I've -- I take 15 pride in my work, just like I do my uniform. 16 And if I go to do something, I put a hundred 17 and fifty percent into whatever I'm doing. 18 Even the production people there and 19 maintenance people, all, when they said -- 20 found out that I had been accused of 21 sleeping, they said: There's no way, he's 22 too hyper. Because I'm an outgoing person, 23 even at night. I've always been that way.</p>

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<p>1 They said there's no way he was sleeping, it      2 ain't no way. And you can ask several of      3 the production people there in stamping,      4 production that I worked with, any of them,      5 they all know me.</p> <p>6 MR. KILBORN: That's all I      7 have.</p> <p>8 MR. JOHNSON: Just a couple      9 follow-up questions.</p> <p>10 EXAMINATION CONTINUED      11 BY MR. JOHNSON:</p> <p>12 Q. You mentioned some sort of      13 video in the security building?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you know if it's actually      16 recording or just a video camera that's      17 monitored?</p> <p>18 A. We was told it was a video      19 recording.</p> <p>20 Q. Who told you that?</p> <p>21 A. Prater and -- I have to think      22 about that one. Because it was one of the      23 other maintenance supervisors from one of</p>	<p>1 the ceiling, running conduit, waves through      2 conduit, through cable waves. There was no      3 way to follow that, no, we didn't have a      4 clue.</p> <p>5 Q. Did you ever see them attached      6 to a camera?</p> <p>7 A. No, I said there's no way.      8 But they had to -- How did they -- They said      9 they recorded the old girl doing the      10 striptease there in the plant by the press.</p> <p>11 Q. Did you ever see any cameras      12 up in that third level near the SOP?</p> <p>13 A. I never looked for them up      14 there.</p> <p>15 Q. So you never saw any?</p> <p>16 A. Like I said, I never looked      17 for any. They may have been up there, may      18 not have. I don't know, I never looked for      19 them.</p> <p>20 Q. Okay. And what church do you      21 go to?</p> <p>22 A. Hillcrest Baptist Church in      23 Maplesville, Alabama.</p>
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<p>1 the other sections. I don't remember.</p> <p>2 Q. When were you told that?</p> <p>3 A. About from get-go. Well, they      4 briefed it in -- I believe they briefed it      5 in their hiring process. And -- Well, I      6 know it was recording, because they busted      7 one of the temporary workers out back and on      8 the floor there by the presses one night for      9 -- she was doing a striptease apparently      10 there by the presses one night, they said      11 the next thing they knew, security come      12 running through the building; said they used      13 the recording when they fired her.</p> <p>14 Q. Okay. Are you aware of any --      15 Well, you mentioned some coax cables?</p> <p>16 A. For the cameras.</p> <p>17 Q. Okay. Other than something      18 that Greg Prater might have told you about      19 those coax cables, do you know what they      20 were, where they went to, or where they came      21 from?</p> <p>22 A. We tried to follow them out,      23 but it was seventy-five, seventy feet up in</p>	<p>1 Q. How big a church is that?</p> <p>2 A. I don't know. Your average      3 sized church. Probably got a hundred people      4 there at any service.</p> <p>5 Q. How many members total?</p> <p>6 A. Oh, God, I don't know.</p> <p>7 Q. You don't know?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you know anybody else from      10 HMMA that works there -- or that goes to      11 church there?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Who?</p> <p>14 A. Keith Smith.</p> <p>15 Q. Who is he?</p> <p>16 A. He works -- He's a production      17 team leader over in general assembly.</p> <p>18 Q. Okay. Now, you said people at      19 church knew that you had been terminated?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did you tell anybody at the      22 church?</p> <p>23 A. Nope.</p>

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1       Q. Do you have any idea how they 2 knew? 3       A. Yes, sir. 4       Q. How? 5       A. Keith's son worked in the 6 building I worked in. Derick. 7       Q. You think Derick told somebody 8 at the church? 9       A. They said Derick told his 10 father, and it just went from there. I live 11 in a small community, if you look wrong, 12 everybody knows it within five minutes. 13      Q. Okay. Did you ever talk to 14 Derick Smith or Keith Smith about it? 15      A. No, sir. 16      Q. You never talked to either of 17 them? 18      A. No, sir. 19      Q. Okay. Do you know anybody who 20 has? 21      A. No. 22      Q. Do you know if your wife did? 23      A. I don't know.	1 anything like this happen, and I was just -- 2 I went and talked to Mr. Bob and -- 3       Q. Who is Mr. Bob? 4       A. -- explained to him everything 5 that happened. And he's the one who put me 6 in contact with Mr. Kilborn. 7       Q. Okay. And is Bob Eddy just a 8 member of the church? 9       A. He's a member of the church 10 and a friend. 11      Q. Okay. But he's not like your 12 pastor or something like that? 13      A. No, sir. 14      Q. Okay. And what's the pastor's 15 name at the church? 16      A. We don't have one. He went 17 north to be with his family who is ill, and 18 he resigned a few weeks ago. His father is 19 in bad health. 20      Q. What was his name? 21      A. Jason Vincent. 22      Q. Did you ever talk to Jason 23 Vincent about this situation?
1       Q. Other than Derick and Keith 2 Smith, do you know anybody else at your 3 church who knows about it? 4       A. I think Keith is the only one, 5 I think, from church that goes there. But, 6 like I said, there's several people there in 7 the community that work down there. 8       Q. Did anybody from your church 9 say anything to you about what the situation 10 at HMMA? 11      A. There was a couple that asked, 12 but I don't remember. 13      Q. Do you know who asked? 14      A. They was asking that Sunday, 15 and I was trying to avoid the issue because 16 I was embarrassed. 17      Q. Did you ever have any 18 conversations with anybody at church that 19 you can recall, that knew about you being 20 terminated at Hyundai? 21      A. Just one person. Mr. Bob 22 Eddy. He's the one -- When I got fired, I 23 didn't know what to do. I had never had	1       A. No, sir. 2       Q. Did he ever call you to check 3 on you about it or do anything to suggest he 4 knew about it? 5       A. Like I said, I was embarrassed 6 about it, I didn't let on -- I didn't want 7 to talk to -- I didn't want to talk to 8 nobody about it. Like I say, ain't never 9 had anything like this happen. And when you 10 got -- When I walked in that first Sunday 11 and Keith looked at me and just hung his 12 head, and other people, I started to turn 13 around and walk out. 14      MR. JOHNSON: Okay. That's 15 all I've got. I appreciate it. 16 (The deposition was concluded at 5:33 p.m., 17 November 20, 2007.) 18 19 20 21 22 23

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1           REPORTER'S CERTIFICATE  
2       STATE OF ALABAMA,  
3       MONTGOMERY COUNTY,  
4       I, Angela Smith McGalliard,  
5       Registered Professional Reporter and  
6       Certified Realtime Reporter, Commissioner  
7       for the State of Alabama at Large, do hereby  
8       certify that the above and foregoing  
9       proceeding was taken down by me by  
10      stenographic means, and that the content  
11      herein was produced in transcript form by  
12      computer aid under my supervision, and that  
13      the foregoing represents, to the best of my  
14      ability, a true and correct transcript of  
15      the proceedings occurring on said date and  
16      at said time.  
17      I further certify that I am neither  
18      of kin nor of counsel to the parties to the  
19      action; nor in any manner interested in the  
20      result of said case.  
21

22                     Angela Smith  
23                     McGalliard, RPR, CRR,  
                         CCR Lic. No. 98.